NONVERBAL INDICATORS OF SEXUAL CONSENT

IN COLLEGE STUDENTS

A Dissertation

by

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ABSTRACT

Particular attention has been paid to the issue of sexual assault on college and university campuses in the United States in the past 6 years. This attention has spurred action by institutions of higher education to comply with federal mandates through increased education for students, policy changes, and training for faculty and staff. One of the significant areas of attention across the country has been development of affirmative consent policies, including signaling consent through the use of nonverbal communication. In order to understand the phenomenon of nonverbal consent, this phenomenological qualitative study was conducted utilizing individual interviews and focus groups to obtain perspectives from current traditional-age college students at a public 4-year university in the southwest. All participants were cisgendered and had previously engaged in a mutually wanted sexual experience.

Participants noted challenges in answering questions about how one indicates "being into" sex. Despite these challenges, they identified multiple nonverbal behaviors that they believed indicated consent. Behaviors identified were categorized based on level of invasiveness, as well as level of strength, as indicators of consent, based on participant contributions and existing research. Lack of resistance was discussed at length as an indicator during individual interviews and focus groups. Participants expressed a variety of opinions regarding what lack of resistance means. Context was important to participants when identifying whether a behavior indicates consent. The collected and analyzed data may assist higher education administrators and other

practitioners in educating and otherwise engaging with students on the topic of nonverbal consent. Furthermore, this study may assist researchers in gaining depth in their work through increased detail of language uncovered during the study. While this study contributes to a growing body of knowledge on this topic, further research providing greater depth is needed.

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CHAPTER I

INTRODUCTION

The message is clear: Colleges and universities must do something to combat the climate of sexual assault on campuses. While sexual assault has been a part of the human experience for a long time, attention on this topic in higher education has grown dramatically since 2011. Prior to the 20th century, sexual assault of a woman was largely looked upon as a crime against property, as the woman was the property of her father or her husband. Sexual assault claims rested on whether a woman had been ruined by the sexual act (Freedman, 2013). As this applied to institutions of higher education, this meant locking women up as if they were a diamond that one wished to protect from diamond thieves. (There was no attention paid to men who may have been victims.) With a continued focus on women as sexual assault victims, time passed and women were looked upon as individuals with individual rights. There was also greater understanding of the potential damaging impacts of sexual assault on the victim. Despite this shift in perspective, there have still been issues related to sexual violence at colleges and universities.

In April 2011, the Office for Civil Rights (OCR) in the Department of Education issued a "Dear Colleague" letter outlining expectations for educational institutions related to sexual harassment and sexual assault (Ali, 2011). This letter was issued a full decade after the Department of Education had published its Revised Sexual Harassment Guidance (U. S. Department of Education, Office of Civil Rights, 2001), which set clear expectations for colleges and universities pertaining to sexual assault. The need for the

April 2011 letter came from a continued history over that decade of educational bodies failing to address appropriately and remedy issues of sexual assault in their environments. The April 2011 letter did not stand alone; a stream of legislation and media attention focused on the sexual assault problem on college campuses followed shortly thereafter.

Today, despite shifts in perspectives, prevention education still largely focuses on how individuals can protect themselves from others instead of focusing on how to reduce the number of persons who perpetrate sexual assault. State laws and higher education policies have been largely focused on whether a victim actively resisted or clearly indicated not wanting to engage in sexual contact when an allegation has come forward. This framework places a significant amount of responsibility on the victim and very little responsibility on the acting party. Contrarily, a movement in higher education is being made to require active consent: a verbal "yes" or some form of clear nonverbal communication that means yes.

Antioch College was the first institution of higher education to implement an affirmative consent policy (Antioch College, 2016). Antioch's policy, instituted in the 1990s, required students to get a clear verbal "yes" from anyone with whom they intended to engage in sexual contact. At the time, this policy was met with a great deal of skepticism and ridicule (Culp-Ressler, 2014; Grinberg, 2014). Twenty-five years later, states such as California and New York require their institutions of higher education to implement affirmative consent policies. These policies reach beyond Antioch's language and allow for use of nonverbal communication to indicate

willingness to engage in sexual contact (Cal. Com. Code § 67386; N.Y. U.C.C. Law § 6441).

The Violence Against Women Reauthorization Act of 2013 (VAWA) implemented a requirement for all federally funded institutions to publish a definition for consent in their Annual Security Report. Some institutions have interpreted this requirement as the institution's obligation to create a definition of consent; specifically, some hold that this means defining affirmative consent. Given this push toward affirmative consent policies at colleges and universities, it is vital for institutions of higher education to have a full understanding of consent. While verbal consent may be clear, nonverbal consent is more complicated. This study was designed to gain insight into what nonverbal consent in traditional-age college students looks like.

Problem Statement

The conversation regarding affirmative consent began in the early 1990s, when Antioch College implemented an affirmative consent definition that required affirmative verbal consent at every stage of a sexual encounter (Antioch College, 2016). More recent policies, including those in New York and California, are written more broadly, allowing nonverbal communication as a form of consent (N.Y. U.C.C. Law § 6441; Texas A&M University, 2015; University of California, 2015). To date, there is a wealth of research on what consent is *not*; however, there is little research regarding what consent *is*. Five studies conducted on consent provide some baseline information regarding verbal and nonverbal communication that are considered to be a part of sexual consent (Beres, Herold, & Maitland, 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys,

2004; Jozkowski, 2011). Standing alone, these studies lack the depth and nuance to fully define sexual consent.

With a trend toward affirmative consent policies at institutions of higher education, it is clear that the current research on consent is inadequate. The Antioch policy requires use of clear verbal communication for consent (Antioch College, 2016), which gives administrators a guideline for making decisions about whether consent was present. Other institutions that allow for a broader range of communication in their affirmative consent policies have a greater challenge in that there are no clearly established guidelines for what constitutes nonverbal affirmative consent. Administrators must wade through presented information, calling on their own lenses and experiences to determine whether a reasonable person would have believed that consent was given. Further research, specifically on nonverbal consent, may provide administrators better guidelines for decisions when an accusation has been made and may provide understanding of what education may be needed for the campus population.

Research Questions

In order to reach the objectives cited in the problem statement, key questions must be asked. These questions assist in providing a baseline for the research protocol discussed in Chapter II. Four primary research questions were posed for this study:

1. What do current traditional-age college students (see Appendix A, Definition of Terms) believe to be external nonverbal indicators of consent between two adult individuals when there are no questions of incapacitation (see Appendix A, Definition of Terms)?

2. What do current traditional-age college students believe to be a simple and obvious indicator of nonverbal consent between two adult individuals when there are no questions of incapacitation?

3. What do current traditional-age college students believe to be complex indicators of nonverbal consent between two adult individuals when there are no questions of incapacitation?

4. What messages have current traditional-age college students received about what consent is?

Question 1 is key to understanding a reasonable-person-similarly-situated standard for current traditional-age college students. Questions 2 and 3 may provide a context for what, if anything, current traditional-age college students perceive to be clear cut related to nonverbal consent versus what is not as clear cut. All three of these questions incorporate all aspects of sexual script theory regarding what informs an individual's perceptions related to sex as influenced by cultural scripts, interpersonal scripts, and intrapsychic scripts. Question 4 focuses on cultural scripts and may touch on interpersonal scripts, depending on the experience of the individual being interviewed. The focus on external messages about consent, which include cultural and interpersonal scripts, may provide understanding for educators regarding gaps in information. Sexual scripts are discussed in detail later in this chapter.

Objectives

The research objectives for this study were threefold: (a) to determine a set of sexual script influences that impact current traditional-age college students, (b) to

determine a set of nonverbal consent indicators utilized by current traditional-age college students, and (c) to determine whether any particular individual or set of nonverbal consent indicators is key to sexual consent between current traditional-age college students. These objectives may provide assistance to prevention education specialists and those who adjudicate sexual assault cases to be more informed in their work.

The purpose of determining a set of sexual script influences is to gain a perspective on the factors that influence an individual's understanding of consent when engaged in sexually intimate behavior. Sexual script theory, discussed in the next section, includes the concept that sex is a socially constructed interaction between individuals. While some functions within a sexual act may be biologically determined, other aspects, such as gaining consent, how one perceives the influence of alcohol or other drugs, or what specific position individuals are in, are constructed by social influences. Understanding the influences that impact traditional-age college students' perceptions of sex may assist prevention education specialists in intervening with negative script influences.

Three of the five existing studies on consent have included the use of an instrument or modified version of this instrument (Beres et al., 2004; Hickman & Muehlenhard, 1999; Jozkowski, 2011), created by Hickman and Muehlenhard. This instrument has a limited set of nonverbal indicators that have a potential to be expanded or reduced with the current generation of traditional-age college students. Studying nonverbal indicators specifically may assist in understanding what a reasonable person

similarly situated may interpret consent to be as it pertains to sex, which may influence policy and/or decisions on sexual assault complaints.

Understanding the key aspects of nonverbal consent as they pertain to current traditional-age college students may also assist in policy creation and conduct decisions relating to issues of consent. If any of the list of nonverbal indicators has a higher level of significance in communicating consent in the current traditional-age college population, policy makers may be able to include concrete examples of nonverbal consent. Furthermore, decision makers may have a clearer understanding of what a reasonable person similarly situated may interpret to be consent as it pertains to sex.

Theoretical Framework

There are no existing theoretical frameworks that apply explicitly to sexual consent. This lack of theory is probably due to a lack of studies conducted on consent to date. Five published studies about consent make reference to sexual script theory (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys, 2004; Jozkowski, 2011). Sexual script theory focuses on scripts that individuals follow in a sexual interaction and has implications for questions of consent. In addition to discussing sexual scripts in this section, I will highlight a legal framework as it connects with sexual scripts, emphasizing the need for further and ongoing research pertaining to sexual consent in sexual interactions between college students. I will describe a construct core to this study, which is that nonverbal communication may be used as a form of consent.

Sexual script theory moves away from the concept that human sexual interactions are based strictly on biological compulsion and evolution (Simon & Gagnon, 2003).

"While the commonsensical view of sex is that it is a spontaneous and ungovernable form of behavior that presses against social norms, in our view the sexual takes on its shape and meaning from its social character" (p. 492). This means that, while there are biological aspects to sexual interactions that involve physiological responses and hormones, interactions between the parties involved in the sexual act make sex a social event. This concept may be demonstrated by choices with regard to a variety of aspects of sexual interactions, such as whom someone takes as a partner or whether there is foreplay. The process leading up to sex is another example of social constructions: For some, scripts involving sex require marriage; for others, scripts may require only physical proximity.

Within this broad concept of sex being socially constructed, sexual script theory is categorized into three levels: cultural scenarios, interpersonal scripts, and intrapsychic scripts (Simon & Gagnon, 1984). Cultural scenarios are specific to cultural expectations of sexual interactions that are often unspoken. These cultural expectations could be free love, where sex is engaged in for enjoyment or, contrarily, only for the purpose of procreation. Cultural scenarios may be composed of symbols and signs of individual roles in sexual experiences. For instance, one may see repeated images connecting alcohol use and sex, leading one to believe that sex should involve alcohol. The expectation is that individuals will follow specific roles as portrayed in these constructed cultural scenarios. In many heterosexual relationships, it is the expectation that the female partner is the gatekeeper of any sexual interactions between the parties. This places the responsibility on the female partner to stop any "inappropriate" sexual

activity; when she fails to do so, she may face reputational damage. Furthermore, what is considered "inappropriate" may vary from person to person, depending on the cultural messages that the person has received. The male in heterosexual interactions, however, may have the freedom to attempt to initiate without concern for ridicule and often with the promise of praise from peers. When individuals fail to follow these often ambiguous cultural scenarios that dictate specific role fulfillment, they develop interpersonal scripts that reflect the reality of their sexual interactions (Simon & Gagnon, 1984). These interpersonal scripts may assist with any cognitive dissonance that occurs between cultural scripts and an individual's lived experience.

In the context of interpersonal scripts, the individual is able to participate in the creation of scripts instead of having to follow culturally developed scripts (Simon & Gagnon, 1984). This participation in script writing assists in resolving conflicts between reality and cultural script expectations. This is particularly useful in recognizing that cultural scenarios may not account for the unique circumstances of each individual sexual encounter. So, instead of following the cultural script of waiting until marriage to have sex, someone's interpersonal script may allow for sex with someone to whom they are engaged or with someone to whom they are otherwise fully committed, regardless of marriage.

Intrapsychic scripts come into play when personal experiences and desires diverge significantly from cultural scenarios. In these situations, interpersonal scripts are not sufficient to resolve individual conflicts of behavior versus cultural expectations (Simon & Gagnon, 1984). An intrapsychic script diverges extensively from cultural

scripts. For instance, if the cultural script is missionary position solely for the purpose of procreation, an interpersonal script may not be sufficient to resolve fetish desires, and so forth. In intrapsychic scripts, individuals write not only their own scripts; in fantasy, they write the scripts of other actors in the sexual interaction. Intrapsychic scripts are more deeply embedded and may not play out in reality; this is when scripts are written for other parties in someone's imagination. These intrapsychic scripts get to the core of an individual's deepest desires. Alternatively, these scripts may play out in reality within subcultures. Examples could be adding a third party to a monogamous relationship or engaging in sexual subcultures such as diaper fetishes by adult babies. In bondage, discipline, sadism, and masochism (BDSM) cultures, there is a greater degree of explicit communication (Pitagora, 2013); this may be due to less common scripts falling into the category of intrapsychic scripts that are not as clearly and broadly defined or accepted as cultural or interpersonal scripts.

Given the context of the sexual script framework as it relates to social construction, there is the possibility of generational differences in how individuals engage in sexual interactions, as well as differences in how individuals engage in sexual interactions over time. Within the minimal current consent research, there appears to be a potential demonstration of this concept in that there appears to have been a shift in the primary type of communication utilized to provide consent over the course of a few decades. Specifically, there was greater use of verbal consent by participants in the latest study, conducted by Jozkowski (2011), supporting the theoretical lens of socially constructed sexual interactions versus nonverbal communication as the primary form of

communication that was reported in earlier studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys, 2004).

When looking at institutional response to issues of consent as it pertains to education and policy development, sexual scripts may provide hope of shifts in later generations relating to sexual consent communication that could be influenced by policy. However, sexual scripts may alternatively demonstrate a problem in that one may see individuals in their late 20s and older making decisions about whether consent was present in a sexual interaction between students in a population that is largely between the ages of 18 and 24. These two populations, the decision makers and the actors, are largely in different generations that may have different understanding of normal sexual scripts.

In addition to sexual script theory, other conceptual lenses are existing legal frameworks. From a legal, civil rights perspective, judgments on whether harassment or other forms of discrimination have occurred are based on a "reasonable-person-similarly-situated" standard. This standard places the role of the decision maker in the role of the person who is affected. For instance, if a mother of two young children stated that she felt afraid when another person shook his fist at her and her children, a male juror with no children would be asked to determine whether it was reasonable for a woman with two young children to be afraid. The juror would not be asked whether a reasonable person with no children would have been afraid. In the context of many cases involving sexual assault in colleges and university, the reasonable-person-similarly-situated standard requires decision makers to place themselves in the perspective of a

traditional-age college student. The reasonable-person-similarly-situated standard has been applied to student conduct processes at many institutions in order to be in line with case law that guides practice. With a lack of research on consent in general, and specifically in the college-age population, along with sexual script theory, this begs the question of how educators, and decision and policy makers are able to make an assessment from a "person similarly situated" perspective when they have likely not experienced consensual sexual interactions from the specific socially constructed lens of the students whom they are serving. In order to make decisions on whether consent was present in a sexual interaction between two students most effectively, administrators must have a context for what those students understand consent to be.

Core to this study was the belief that nonverbal communication is utilized in sexual interactions. This assumption may seem obvious to some, but in light of some affirmative consent policies that require verbally expressed consent, it is important to mention. This assumption is supported by the five existing consent studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys, 2004; Jozkowski, 2011).

Chapter Summary

This chapter has included information demonstrating the need for further research in the area of sexual consent in the college student population. The challenges of current expectations on colleges and universities, in combination with a lack of research on affirmative consent, demonstrate the need to understand this topic. This study was intended (a) to determine a set of sexual script influences influencing current traditional-age college students, (b) to determine a set of nonverbal consent indicators

utilized by current traditional-age college students, and (c) to determine whether any particular individual or set of nonverbal consent indicators is key to sexual consent between current traditional-age college students. These objectives were the aim of the study within the context of sexual script theory, which provides a perspective on the social construction of sexual interactions.

CHAPTER II

LITERATURE REVIEW

The issue of sexual assault is not a new one. Anyone can find information in both fiction and nonfiction literature that includes stories of sexual assault. The issue of sexual assault is also not new to college campuses. However, a blinding spotlight was shone on it following the April 3, 2011, Dear Colleague letter (Ali, 2011) issued by the Office for Civil Rights in the Department of Education. The letter, along with legislation and media attention, has brought sexual assault to the forefront of the consciousness of many in higher education. This push to take action includes establishing clear policies and education that may assist in reducing incidents of sexual violence. Affirmative consent policies are one way in which institutions of higher education have been attempting to institute change. These policies provide a context for what is consent versus what consent is not and often include broad language relating to the type of communication that may be used to communicate consent. This communication may include verbal and nonverbal indicators. This literature review includes information about the problem of sexual assault, legislative influences, state laws, and a brief discussion of the existing consent literature, which includes some nonverbal aspects.

The Problem with Sexual Assault

In spring 2015, the Association of American Universities (AAU) conducted a national climate study focused on sexual assault on 27 campuses. Results showed that 11.7% of the respondents reported having experienced sexual assault while in college, including 23% of female respondents (AAU, 2015). While there has been great debate

over the legitimacy of the published statistics from a variety of studies, the impact of sexual violence on individuals in the community is monumental.

Survivors

The primary individuals impacted by sexual violence are the survivors. Impacts of sexual assault include trauma symptoms due to self-stigma (Deitz, Williams, Rife, & Cantrell, 2015), relationship issues (Connop & Petrak, 2004; M. E. Smith, 2005), increased risk of suicide (Chang et al., 2015; Guerette & Caron, 2007), post-traumatic stress disorder (Herman, 1992), nightmares (Krakow et al., 2000), a heightened distrust of others, and negative emotions such as anger and guilt (Guerette & Caron, 2007). These impacts reach beyond generalized impacts to direct negative impacts for students who experience a sexual assault, including lower grade point average and lower rates of retention (Jordan, Combs, & Smith, 2015).

Survivor Supporters

Survivors are not the only ones who are affected by sexual assaults on campus. While research shows that survivors often do not disclose their assaults to anyone, when they do, they tend to go first to friends (Cantor et al., 2015). If every survivor disclosed to one friend in the college community, using the numbers from the AAU survey, this means that another approximately 12% of the college population is affected by sexual violence. The impacts on survivor supporters are not the same as those on the survivor, but they are meaningful.

For women who are survivor supporters, one may perceive positive outcomes, as research shows that women tend to feel that they were able to assist the survivor and feel

good about being able to do so (Ahrens & Campbell, 2000; Banyard, Moynihan, Walsh, Cohn, & Ward, 2009). It appears that some of these good feelings come from the supporter's belief that she is competent to assist the survivor in a time of need (Ahrens & Campbell, 2000; Banyard et al., 2009). However, Banyard et al. also showed that, after a friend disclosed to them, women tended to be more concerned for their own safety demonstrating negative impacts on women that go beyond the survivor.

For men who are survivor supporters, there appear to be greater levels of negative impacts that are very different from concerns for personal safety, particularly for those who are significant others (e.g., intimate partner, father, brother) to the survivor (Brookings, McEvoy, & Reed, 1994; Davis & Brickman, 1996). The list of negative impacts on male survivor supporters includes anger, denial, sexual dysfunction, depression, difficulty managing emotions, and feelings of betrayal (Brookings et al., 1994; M. E. Smith, 2005). While many of the studies cited above indicate gendered differences, Ahrens and Campbell (2000) disagreed that gender plays a role in a survivor supporter's experience, indicating that the differences have more to do with personal understanding of sexual assault than with gender.

Governmental Attention

Despite that fact that the April 2011 Dear Colleague Letter (Ali, 2011) spurred a national response to sexual assault, this was hardly the first guidance from the federal government regarding this issue. Title IX of the Educational Amendments of 1972, upon which the Dear Colleague Letter is based, was in existence for decades before the letter was distributed. Of course, at the time, the focus was largely on program equity in

athletics. The Jeanne Clery Act, signed in 1990, was one of the first regulations to provided explicit guidance for higher education relating to sexual assault. Similar to more recent legislation and guidance, the Clery Act requires institutions of higher education to publish specific information including, but not limited to, rights for victims of sexual assault and the importance of preserving evidence, and to assist victims in filing a report with law enforcement if they choose to do so. The Clery Act also requires institutions of higher education to publish an annual security report that contains a list of crimes that have occurred in the past year on the college premises. This requirement is intended to assist students and their families in determining the level of safety of the colleges that they are considering. Furthermore, regarding Title IX, the Dear Colleague Letter (Ali, 2011) was not even the first guidance from the OCR about the application of Title IX to harassment and sexual assault. OCR set clear expectations relating to these issues with their Revised Sexual Harassment Guidance issued in 2001.

Since the Dear Colleague Letter (Ali, 2011), there has been additional guidance from the federal government pertaining to sexual assault. The most relevant piece of legislation as it applies to this study is the VAWA of 2013. The reauthorization of VAWA included multiple requirements that applied to the Clery annual security reports. One of these requirements was to publish in the annual report a definition of *consent* applicable in the relevant jurisdiction. It is clear that these pieces of legislation are extensively intertwined, creating a convoluted yarn ball of rules and regulations that institutions of higher education must follow.

Despite the growing attention on the issue of sexual assault and consent, recent changes in the federal government may affect the future of this issue on college campuses. Much speculation exists that the OCR in the Department of Education may be dissolved, but Gersen and Gersen (2017) expressed the belief that the current President Donald Trump, is in no position to halt the "sex bureaucracy" (para. 37). Specifically, Gersen and Gersen contended that the push toward these issues has been so great that no administration would be likely to give up that kind of power. Furthermore, Gersen and Gersen pointed out that the negative publicity regarding the President and his treatment of women may encourage the administration to push harder on this issue to counter this negative narrative. Colleges and universities have continued to be pushed forward in the fight against sexual violence (Thomason, 2017) and will still have to struggle with issues of consent.

Consent

Consent is a vital component of considerations of higher education related to sexual assault prevention education and student conduct processes. Consent is a key factor in the definition of sexual assault (VAWA, 2013). Thus, for students to be educated on sexual assault, they must understand consent and consent must be considered in determining whether someone is responsible for sexually assaulting another. This expectation has been made clear by the federal government in requiring colleges and universities to educate students on the definition of sexual assault (Ali, 2011) and to put a definition of consent in the annual security report (VAWA, 2013). This section includes a review of state laws relating to consent, affirmative consent

policies at colleges and universities, and issues around the burden of proof as it pertains to affirmative consent.

State Laws on Sexual Assault and Consent

One of the places that *consent* has been defined across the United States is in state law. While laws related to sexual assault have been reformed over the years (Bryden & Lengnick, 1997), most references to consent in state criminal codes provide explanations of when consent is not present, non-consent (720 Ill. Comp. Stat. § 5/12-13; Ala. Code § 13A-6-70; Alaska Stat. § 11.41.470; Ariz. Rev. Stat. § 13.1401; Ark. Code §5-14-125; Cal. Com. Code § 261; Conn. Gen. Stat. § 53a-73a; Del. Code tit. 11 § 761; Idaho Code Ann. § 18-6101; Idaho Code Ann. § 18-6608; Ind. Code §§ 35-42-4-1–35-42-4-8; Iowa Code § 709.1; Kan. Stat. Ann. § 21.3502; Ky. Rev. Stat. Ann. § 510.020; La. Rev. Stat. Ann. §§ 14:42–14:43; Mont. Code Ann. § 45-5-501; N.J. Rev. Stat. § 2C:14-2; Neb. Rev. Stat. § 28-318; Okla. Stat. tit. 21 § 888v1; S.D. Codified Law § 22-22-1; W. Va. Code § 61-8B-2). This compares to only six states that define consent in their criminal codes (Colo. Rev. Stat. § 18-3-401; Fla. Stat. § 794.011; Minn. Stat. § 609.341-4; Vt. Stat. Ann. tit. 13, § 3251; Wash. Rev. Code § 9A.44.010; Wis. Stat. § 940.225). Other states do not use consent as a key component in their sexual assault laws (Ga. Code Ann. §§ 16-6-1–16-6-5.1; Ga. Code Ann. §§ 16-6-18–16-6-19; Haw. Rev. Stat. §§ 707-730 – 707-757; Mass. Gen. Laws ch. 265, § 22; N.C. Gen. Stat. § 14-27-2; N.D. Cent. Code § 12.1-20-03; Nev. Rev. Stat. § 200.366.1; Ohio Rev. Code § 2907.04; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-3-652; VA. Code Ann. § 18.2-61). California and New York have laws in their education codes requiring

institutions of higher education to adopt affirmative consent policies (Cal. Com. Code § 67386; N.Y. U.C.C. Law § 6441). Table 1 contains a list of the 50 states and the form of consent, if any, included in their laws.

For the states that have non-consent in their criminal codes, there are two significant ways in which the non-consent is expressed. Some of the states provide a definition or explanation of what "without consent" or "lack of consent" means (Ala. Code § 13A-6-70; Alaska Stat. § 11.41.470; Ariz. Rev. Stat. § 13.1401; Del. Code tit. 11 § 761; Ky. Rev. Stat. Ann. § 510.020; Mont. Code Ann. § 45-5-501; Neb. Rev. Stat. § 28-318; W. Va. Code § 61-8B-2). Other states do not explicitly define lack of consent but provide context for when consent is not legally present (720 Ill. Comp. Stat. § 5/12-13; Ark. Code §5-14-125; Cal. Com. Code § 261; Conn. Gen. Stat. § 53a-73a; Idaho Code Ann. § 18-6101; Idaho Code Ann. § 18-6608; Ind. Code §§ 35-42-4-1–35-42-4-8; Iowa Code § 709.1; Kan. Stat. Ann. § 21.3502; La. Rev. Stat. Ann. §§ 14:42–14:43; N.J. Rev. Stat. § 2C:14-2; Okla. Stat. tit. 21 § 888v1; S.D. Codified Law § 22-22-1). An example of this is in Arkansas, where a person commits a violation when that person "engages in sexual contact with another person who is incapable of consent because the person is physically helpless, mentally defective, or mentally incapacitated" (Ark. Code

Table 1

Laws Regarding Sexual Assault/Rape

State	Non-consent	Affirmative consent
Alabama	Criminal Code "lack of consent" Ala. Code § 13A-6-70	
Alaska	Criminal Law "without consent" Alaska Stat. § 11.41.470	
Arizona	Criminal Code "without consent" Ariz. Rev. Stat. § 13.1401	
Arkansas	Criminal Offenses "incapable of consent" Ark. Code §5-14-125	
California	Penal Code "incapable of consent" Cal. Com. Code § 261	Education Code Postsecondary institutions receiving state funds have affirmative consent definitions Cal. Com. Code § 67386
Colorado		Criminal Code "consent" Colo. Rev. Stat. § 18-3-401
Connecticut	Penal Code "unable to consent" Conn. Gen. Stat. § 53a-73a	
Delaware	Criminal Code "without consent" Del. Code tit. 11 § 761	
Florida		Crimes "consent" Fla. Stat. § 794.011
Georgia		
Hawaii		
Idaho	Crimes and Punishments "incapable . . . of giving legal consent" Idaho Code Ann. § 18-6608	

Table 1 (continued)

State	Non-consent	Affirmative consent
Illinois	Criminal Code "unable to give knowing consent" 720 Ill. Comp. Stat. § 5/12-13	
Indiana	Criminal Law and Procedure "consent . . . cannot be given" Ind. Code §§ 35-42-4-1–35-42-4-8	
Iowa	Iowa Code "precludes consent" Iowa Code § 709.1	
Kansas	Crimes and Punishments "incapable of giving consent" Kan. Stat. Ann. § 21.3502	
Kentucky	Kentucky Revised Statutes "lack of consent" Ky. Rev. Stat. Ann. § 510.020	
Louisiana	Revised Statutes "without lawful consent" La. Rev. Stat. Ann. §§ 14:42–14:43	
Maine	Criminal Code "incapable . . . of understanding . . . right to deny or withdraw consent" Me. Rev. Stat. Ann. tit. 17, § 253	
Maryland		
Massachusetts		
Michigan		
Minnesota		Criminal Code "consent" Minn. Stat. § 609.341-4
Mississippi		
Missouri	Revised Statutes "incapable of making informed consent" Mo. Rev. Stat. § 566.030	
Montana	Montana Code "without consent" Mont. Code Ann. § 45-5-501	

Table 1 (continued)

State	Non-consent	Affirmative consent
Nebraska	Revised Statues "without consent" Neb. Rev. Stat. § 28-318	
Nevada		
New Hampshire	Criminal Code "the victim indicates by speech or conduct that there is not freely given consent" N.H. Rev. Stat. Ann. § 632-A:2(m)	
New Jersey	Code of Criminal Justice "incapable of providing consent" N.J. Rev. Stat. § 2C:14-1(h);	
New Mexico		
New York	Penal Law "lack of consent" N.Y. U.C.C. Law § 130.05	Education Law Postsecondary institutions must use affirmative consent definition provided by state N.Y. U.C.C. Law § 6441
North Carolina		
North Dakota		
Ohio		
Oklahoma		
Oregon	Crimes and Punishments "incapable of consenting" Or. Rev. Stat. § 163.315(1)	
Pennsylvania		
Rhode Island		
South Carolina		
South Dakota	Crimes "incapable of giving consent" S.D. Codified Law § 22-22-1	
Tennessee		
Texas	Penal Code "without the consent of the other person" Tex. Bus. & Com. Code § 22.011	

Table 1 (continued)

State	Non-consent	Affirmative consent
Utah	Criminal Code "without consent" Utah Code § 76-5-406	
Vermont		Crimes and Criminal Procedures "consent" Vt. Stat. Ann. tit. 13, § 3251
Virginia		
Washington		Criminal Code "consent" Wash. Rev. Code § 9A.44.010
West Virginia	Crimes and Their Punishments "lack of consent" W. Va. Code § 61-8B-2	
Wisconsin		Criminal Code "consent" Wis. Stat. § 940.225
Wyoming		

Note. Data compiled in August 2015.

§5-14-125(a)(2)). The states that do not use consent as a key component of their sexual assault laws commonly use phrases such as "against the will of the victim" or "against his will" (Ga. Code Ann. §§ 16-6-1–16-6-5.1; Ga. Code Ann. §§ 16-6-18–16-6-19; Haw. Rev. Stat. §§ 707-730–707-757; Mass. Gen. Laws ch. 265, § 22; N.C. Gen. Stat. § 14-27-2; Nev. Rev. Stat. § 200.366.1; VA. Code Ann. § 18.2-61). Other state statutes simply specify that sexual assault occurs when sexual contact happens when the contact involves force, mental deficiency, and so forth (N.D. Cent. Code § 12.1-20-03; Ohio Rev. Code § 2907.04; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-3-652).

While these general concepts of consent or non-consent exist across the states, the definition for consent and its use are not always clear. Some statutes use the word "consent" but do not have definitions for it. Maryland's statutes do not have an explicit definition for "consent" or "without the consent" (Md. Code, Com. Law §§ 3-303–3-307) but contain the statement, "In this subtitle an undefined word or phrase that describes an element of common-law rape retains its judicially determined meaning, except to the extent it is expressly or impliedly changed in this subtitle" (Md. Code, Com. Law § 3-302). This use of common law would require someone to examine case law in Maryland to understand the legal definition for consent in the state. Missouri uses "without that person's consent" (Mo. Rev. Stat. § 566.031-1) but "consent" is not in the definitions section (Mo. Rev. Stat. § 566.010). Similarly, New Mexico uses "without consent" (N.M. Stat. § 30-9-12.A.) but does not define the term (N.M. Stat. § 30-9-10). Pennsylvania statutes include "without the complainants consent" (18 Pa. Cons. Stat. § 3124.1) but do not define consent (18 Pa. Cons. Stat. § 3101). Tennessee also uses the word *consent* by indicating the following to be an offense: "The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent" (Tenn. Code Ann. § 39-13-503(a)(2)). Tennessee does not provide a definition of consent (Tenn. Code Ann. § 39-13-501). Connecticut also uses the term "consent" but does not define it. (Conn. Gen. Stat. § 53a-73a). Some states may address consent for one type of sexual assault but not for others. In Idaho, the term *consent* appears in discussion of sex crimes

related to penetration by a foreign object (Idaho Code Ann. § 18-6608) but not in the state's rape statute (Idaho Code Ann. § 18-6101).

Despite inconsistency and confusion in the definitions of consent, there are some clear common elements of non-consent in the law. Even the states with affirmative consent definitions include forms of non-consent in their statutes. The inclusion of force or forcible compulsion is evident in the majority of the statutes (18 Pa. Cons. Stat. § 3121; Ala. Code § 13A-6-61; Ark. Code § 5-14-103; Fla. Stat. § 794.011; Ga. Code Ann. § 16-6-1; Haw. Rev. Stat. § 707-730; 720 Ill. Comp. Stat. § 5/12-13; Ind. Code § 35-42-4-1; Iowa Code § 709.1; Kan. Stat. Ann. § 21.3502; Ky. Rev. Stat. Ann. § 510.020; Md. Code, Com. Law §§ 3-303 – 3-307; Mass. Gen. Laws ch. 265 § 22; Mich. Comp. Laws § 750.520b; Minn. Stat. § 609.342-1; Miss. Code Ann. § 97-3-65; Mo. Rev. Stat. § 566.100; Mont. Code Ann. § 45-5-501; Neb. Rev. Stat. § 28-318; N.C. Gen. Stat. § 14-27-2; N.D. Cent. Code § 12.1-20-03; N.H. Rev. Stat. Ann. § 632-A:2; N.J. Rev. Stat. § 2C:14-2; N.M. Stat. § 30-9-11; N.Y. U.C.C. Law § 130.05; Or. Rev. Stat. § 163.315; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-3-652; S.D. Codified Law § 22-22-1; Tenn. Code Ann. § 39-13-503; Tex. Bus. & Com. Code § 22.011; Utah Code § 76-5-406; VA. Code Ann. § 18.2-61; W. Va. Code § 61-8B-2; Wash. Rev. Code § 9A.44.010; Wis. Stat. § 940.225; Wyo. Stat. § 6-6-302). The terms *mentally defective, mental illness, mental deficiency,* or *mental incapacitation* are also common (18 Pa. Cons. Stat. § 3121; Ala. Code § 13A-6-61; Ark. Code § 5-14-125; Fla. Stat. § 794.011; Haw. Rev. Stat. § 707-730; Idaho Code Ann. § 18-6101; Ind. Code §§ 35-42-4-1–35-42-4-8; Iowa Code § 709.1; Kan. Stat. Ann. § 21.3502; Ky. Rev. Stat. Ann. § 510.020; Md.

Code, Com. Law § 3-304; Me. Rev. Stat. Ann. tit. 17, § 253; Mich. Comp. Laws § 750.520b; Minn. Stat. § 609.341-4; Mo. Rev. Stat. § 566.030; Mont. Code Ann. §45-5-501; N.C. Gen. Stat. § 14-27-2; N.D. Cent. Code § 12.1-20-03; N.J. Rev. Stat. § 2C:14-2; N.Y. U.C.C. Law § 130.05; Okla. Stat. tit. 21 § 888v1; Or. Rev. Stat. § 163.315; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-3-652; S.D. Codified Law § 22-22-1; Tenn. Code Ann. § 39-13-503; Tex. Bus. & Com. Code § 22.011; Utah Code § 76-5-406; VA. Code Ann. § 18.2-61; W. Va. Code § 61-8B-2; Wash. Rev. Code § 9A.44.010; Wis. Stat. § 940.225; Wyo. Stat. § 6-6-302). Other common non-consent components include lack of awareness that the act is occurring (18 Pa. Cons. Stat. § 3121; Alaska Stat. § 11.41.410; Idaho Code Ann. § 18-6101; Ind. Code §§ 35-42-4-1– 35-42-4-8; Ohio Rev. Code § 2907.03; Tex. Bus. & Com. Code § 22.011; Utah Code § 76-5-406), unconsciousness (18 Pa. Cons. Stat. § 3121; Md. Code, Com. Law § 3-301; Utah Code § 76-5-406; Me. Rev. Stat. Ann. tit. 17, § 255; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-3-652; W. Va. Code § 61-8B-2; Wash. Rev. Code § 9A.44.010; Wis. Stat. § 940.225), and type of relationship to the victim, particularly relating to family members, primary and secondary school employees, health care professionals, and prison workers (Me. Rev. Stat. Ann. tit. 17, § 253; Mich. Comp. Laws § 750.520b; Minn. Stat. § 609.343-1; Mo. Rev. Stat. § 566.023; N.H. Rev. Stat. Ann. § 632-A:2; N.Y. U.C.C. Law § 130.05; Ohio Rev. Code § 2907.03; Tex. Bus. & Com. Code § 22.011; VA. Code Ann. § 18.2-61; Vt. Stat. Ann. tit. 13, § 3252; Wash. Rev. Code § 9A.44.010).

Age is another consideration appearing in all 50 states' statutes. This aspect of the law is clearly of interest, given the number of web resources that provide summary information regarding each state's age of consent (Age of Consent, n.d., 2010; Clarke, n.d.; Wikipedia, n.d.). As pointed out by Age of Consent (2010), this is a complicated issue and individuals who want this information are better served by looking at each state's criminal code for specific answers. In my review of this issue, it appears that 16 years is the most common age of consent, absent a special relationship with the victim (18 Pa. Cons. Stat. § 3121; Ala. Code § 13A-6-61; Conn. Gen. Stat. § 53a-70; Del. Code tit. 11 § 771; Ga. Code Ann. § 16-6-3; Haw. Rev. Stat. § 707-730; Idaho Code Ann. § 18-1506; Ind. Code § 35-42-4-9; Ky. Rev. Stat. Ann. § 510.020; Mich. Comp. Laws § 750.520d; Minn. Stat. § 609.343-1; Miss. Code Ann. § 97-3-65; Mont. Code Ann. §45-5-501; Neb. Rev. Stat. § 28-319; Nev. Rev. Stat. § 200.364; N.H. Rev. Stat. Ann. § 632-A:2; N.J. Rev. Stat. § 2C:14-2; N.M. Stat. § 30-9-11; Ohio Rev. Code § 2907.04; Okla. Stat. tit. 21 § 888v1; R.I. Gen. Laws § 11-37-2; S.C. Code Ann. § 16-15-140; S.D. Codified Law § 22-22-7; Utah Code § 76-5-401; Vt. Stat. Ann. tit. 13, § 3252; W. Va. Code § 61-8B-2; Wyo. Stat. § 6-2-304). Furthermore, the degree of rape or sexual assault is often different depending on the victim's age. For example, in Connecticut, it is a first-degree rape to penetrate an individual under the age of 13 (Conn. Gen. Stat. § 53a-70); if the victim is between the age of 13 and 16, it is a second-degree rape (Conn. Gen. Stat. § 53a-70). For sexual assault, Connecticut specifies age 15 (Conn. Gen. Stat. § 53a-73a).

Incapacitation due to alcohol and/or other drugs is another component of sexual assault laws that may be of interest, particularly for those working in higher education, as approximately 50% of sexual assaults of college women involve alcohol (Abbey, Ross, McDuffie, & McAuslan, 1996; Harrington & Leitenberg, 1994). A few states have broad language that makes it illegal to have sexual contact with someone who is unable to appraise the nature of the conduct due to alcohol or other drugs (Iowa Code § 709.1A; Md. Code, Com. Law § 3-301; Ohio Rev. Code § 2907.03; S.D. Codified Law § 22-22-1). A larger number of states specify that the acting party must have contributed to the incapacitation without the knowledge or consent of the victim in order for the conduct to be unlawful (18 Pa. Cons. Stat. § 3121; Alaska Stat. § 11.41.470; Conn. Gen. Stat. § 53a-65; Ind. Code §§ 35-42-4-1–35-42-4-8; Mo. Rev. Stat. § 566.030; N.H. Rev. Stat. Ann. § 632-A:2; N.J. Rev. Stat. § 2C:14-1; S.C. Code Ann. § 16-3-652; Tenn. Code Ann. § 39-13-501; Tex. Bus. & Com. Code § 22.01; Vt. Stat. Ann. tit. 13, § 3252). Another way some states view this issue is that the sexual contact is unlawful if the acting party knew, or reasonably should have known, that the victim was incapacitated (Ariz. Rev. Stat. § 13.1401; Cal. Com. Code §§ 261-269; Kan. Stat. Ann. § 21.3502; La. Rev. Stat. Ann. § 14:43; Mo. Rev. Stat. § 566.020; N.Y. U.C.C. Law § 130.05).

The concept of reasonably knowing some fact about a victim's status varies based on the aspect of non-consent being discussed. Age in some states has a different standard. For instance, in Delaware, "It is no defense that the actor did not know the person's age, or that the actor reasonably believed that the person had reached his or her sixteenth birthday" (Del. Code tit. 11 § 762(a)). This same standard applies in Missouri

with regard to a child under the age of 13; however if the acting party did not know the victim was not over the age of 17, that may be a defense (Mo. Rev. Stat. § 566.020).

Regardless of the type of non-consent involved, there are several ways in which an acting party may defend against allegations of sexual assault. One of these ways is to indicate that the victim failed to resist. Idaho's statute emphasizes the need for the female to have attempted some form of resistance, allowing for a lack of resistance only when threatened or physically unable to resist (Idaho Code Ann. § 18-6101). Similarly, Louisiana and Maine include the requirement for resistance to be present in order for the offense to be rape (La. Rev. Stat. Ann. § 14:42–14:42.1; Me. Rev. Stat. Ann. tit. 17, § 255). The presence of resistance in these laws is one of the few ways in which the statutes refer to nonverbal communication from the victim.

Other states that incorporated victim communication in their non-consent language include Nebraska, Utah, and New Hampshire. Nebraska's code gives examples of non-consent by including the following: "(ii) the victim expressed a lack of consent through words, or (iii) the victim expressed a lack of consent through conduct" (Neb. Rev. Stat. § 28-318(8)(a)). Utah cites a "lack of consent through words or conduct" (Utah Code § 76-5-406(1)). New Hampshire's code includes "the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act. A jury is not required to infer consent from a victim's failure to physically resist a sexual assault" (N.H. Rev. Stat. Ann. § 632-A:6).

For the states that have affirmative consent policies in their laws, active communication from the victim is a requirement. This inclusion of active

communication is most clearly laid out by Minnesota, Vermont, Washington, and Wisconsin, with the following definitions, respectively: "'Consent' means words or overt actions by a person indicating a freely given present agreement to perform a particular sexual act with the actor" (Minn. Stat. § 609.341-4(a)); "'Consent' means words or actions by a person indicating a voluntary agreement to engage in a sexual act." (Vt. Stat. Ann. tit. 13, § 3251); "'Consent' means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact." (Wash. Rev. Code § 9A.44.010(7)); and "'Consent', [sic] as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact" (Wis. Stat. § 940.225(4)).

While neither California nor New York have affirmative consent laws in their criminal codes, they both have laws in their education codes that require institutions of higher education to have affirmative consent definitions in their policies. California provides language about what affirmative consent is but does not require specific language for university policy. New York is more direct, requiring the use of specific language in college and university policy pertaining to consent. Both of these policies are discussed in detail in the next section.

Affirmative Consent Policies for Colleges and Universities

Affirmative consent policies, sometimes called "yes means yes," are policies that define what consent is versus defining what consent is not. As was demonstrated in the prior section, few states use affirmative consent policies in their criminal codes (Colo.

Rev. Stat. § 18-3-401; Fla. Stat. § 794.011; Minn. Stat. § 609.341-4; Vt. Stat. Ann. tit. 13, § 3251; Wash. Rev. Code § 9A.44.010; Wis. Stat. § 940.225) and two require affirmative consent policies at institutions of higher education (Cal. Com. Code § 67386; N.Y. U.C.C. Law § 6441). The concept of affirmative consent is not new. In the early 1990s, Ohio's Antioch College instituted an affirmative consent policy that resulted in pushback and mockery (Culp-Ressler, 2014; Grinberg, 2014). Despite this initial response to affirmative consent and while not many state criminal codes include affirmative consent, the number of institutions using affirmative consent definitions has grown substantially over the years (New, 2014).

In California, institutions of higher education that receive funds from the state are required to have a policy that includes affirmative consent for sexual activity (Cal. Com. Code § 67386). The statute has components of non-consent that include unconsciousness, incapacitation due to alcohol or other drugs, and inability to communicate (Cal. Com. Code § 67386). While the California statute (Appendix B) contains language defining affirmative consent, there is no requirement that institutions of higher education use that specific language in their policies.

The language in the University of California (UC) interim policy on sexual harassment and sexual violence, which had effective dates from June 17 to December 31, 2015, emphasized that consent is informed, voluntary, and revocable (UC, 2015). The California State University (CSU) system used virtually the same definition as in the California statute (White, 2015). The main difference in the CSU policy is that the agreement between the parties must be mutual; the policy uses the term *affirmative*

consent versus simple *consent* (White, 2015). A common component in the statute language and the UC and CSU language was the use of the word *agreement* (Cal. Com. Code § 67386; UC, 2015; White, 2015). None of the policies explicitly included the requirement of verbal or nonverbal communication but this aspect is implied by the need to reach agreement between parties.

New York, contrary to California, requires specific language for its institutions of higher education (N.Y. U.C.C. Law § 6441; (Appendix C). The language in the New York statute emphasizes the need for a "knowing, voluntary, and mutual decision" (N.Y. U.C.C. Law § 6441) between the parties. This statute is more specific about how the decision can be made by including language about how consent may be reached. Specifically, clarity is given that consent can be reached through words or through actions. Similar to all affirmative consent definitions that have been discussed, some elements of non-consent are included in the statute (N.Y. U.C.C. Law § 6441). In this case, however, there is no specific language required, only the inclusion of concepts in the policy. The aspects of non-consent include unconsciousness, incapacitation due to alcohol or other drugs, and force.

Institutions of higher education in New York and California are not the only ones to adopt affirmative consent policies. A variety of institutions of higher education across the country have affirmative consent policies even though they are not required by law to have them. The National Center for Higher Education Risk Management (NCHERM) emphasized this by stating that more than 800 institutions of higher education use an affirmative consent definition (NCHERM Group, LLC, 2014). Examples of institutions

with affirmative consent policies include Cornell University (Cornell University Policy Library, 2015), Yale University (2014), University of Iowa (n.d.), University of Tennessee at Chattanooga (2015), University of Minnesota (Lerner, 2015), and University of Texas at Austin (2015). Similar to the California and New York schools, the affirmative consent definitions at these institutions have common elements using some variations of words or actions (Cornell University Policy Library, 2015; University of Iowa, n.d.) or agreement (University of Tennessee at Chattanooga, 2015; University of Texas at Austin, 2015; Yale University, 2014).

Benefits and Challenges of Affirmative Consent Policies

While institutions have utilized affirmative consent policies prior to the passing of the California and New York bills on affirmative consent, the signing of these bills led to a flurry of opinions on the matter in the media. Opinion articles from individuals and formalized statements from organizations can be found online. The opinions on affirmative consent are clearly pronounced on both sides of the issue.

Advocating for affirmative consent. Many references to those who are in favor of affirmative consent are categorized as *victim advocates* or *feminists* or *those in the prevention education business* (Grinberg, 2014; New, 2014). The arguments for affirmative consent often emphasize that moving to affirmative consent in policy and the law is better for society, particularly for women (Deep, 2014; Jozkowski, 2015; Little, 2005). Little discussed the shifts that can come from affirmative consent in the way in which people view sex. With affirmative consent, people may view sex as an activity in which all parties actively engage upon mutual agreement. This, in Little's viewpoint,

communicates that a woman's decision about whether to have sex is valid and is given legitimacy and weight by her partner(s). Jozkowski (2015) similarly noted potential benefits of affirmative consent policies, comparing them to policy-level public health inventions such as "Click it or Ticket," which has been successful in changing social norms.

Another perspective, provided by Deep (2014), is that affirmative consent policies assist society in moving away from victim-blaming philosophies. Deep argued that affirmative consent policies are a stand against rape culture by shifting the focus to teaching people how not to perpetrate sexual assault versus messages on how not to be raped. Boyd (2014) strongly defended affirmative consent policies, specifically for higher education, emphasizing that humans communicate extensively in their intimate encounters and that people are skilled at assessing when they are being rejected or encouraged. This perspective was voiced to counter arguments that affirmative consent policies are unrealistic. Boyd (2014) noted that institutions of higher education have an obligation above and beyond the law, not only through obligations from the federal government but also due to the educational mission of the university to provide a climate conducive to learning.

Advocacy for affirmative consent policies can be found outside of the United States. Canada implemented affirmative consent into law in 1992 (Vandervort, 2012). In the author's review of the affirmative consent laws in Canada, Vandervort stated regarding affirmative consent that "the effect is to facilitate effective enforcement of the sexual assault laws and affirm the right to sexual autonomy, sexual self-determination,

and equality, consistent with fundamental principles of individual human rights" (p. 398). Vandervort pointed out four categories of vulnerable persons who are ill served by "no means no" definitions and stressed the sexual integrity that is protected by an affirmative consent policy that better serves these vulnerable persons by providing better protection.

The burden of proof. The issue of the burden of proof has come up in several ways related to affirmative consent. Colorado, one of the states that has an affirmative consent definition in its criminal code, disclaimed in the definition of consent, "Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4" (Colo. Rev. Stat. § 18-3-401(1.5)). The burden of proof has also come up related to conduct processes. In *Mock v. University of Tennessee* (2015), a female student at the University of Tennessee at Chattanooga (UTC) alleged that a fellow UTC student sexually assaulted her in March 2014. After going through multiple layers of UTC's administrative conduct process, the accused student was found responsible for violating UTC policy and was expelled from the university. The documented rationale for this decision included the following statements: "There is no suggestion that Ms. Morris gave him any indication, verbal or nonverbal, that she consented to him removing her pants" (p. 5); "but again there is no suggestion that Ms. Morris gave him any indication verbal or nonverbal, that she consented to him performing oral sex on her" (p. 5); and "but yet again there is no suggestion that Ms. Morris gave him any indication, verbal or nonverbal, that she consented to him performing vaginal intercourse" (p. 5). Consistent with this rationale,

UTC indicated that the burden of proof was met in "requiring the accused to affirmatively prove consent" (p. 11). The judge in this case pointed out that, while the University of Tennessee policy places the burden on the initiator of sexual contact to ensure that there is consent, this does not shift the burden of proof in a conduct matter onto that individual; it is still the responsibility of the charging party, in this case the Dean, to prove that consent was not present.

In response to this case, as well as general concern for the topic of the burden of proof related to affirmative consent, there have been several articles. Soave (2015) voiced an opinion that the decision from *Mock* was a serious blow to affirmative consent policies. Contrarily, Brett Sokolow, Executive Director of the Association of Title IX Administrators (ATIXA), stated in an email to the ATIXA membership in response to this case that affirmative consent policies shift the burden in the social interaction to the acting party but do not shift the burden of proof in legal situations (personal communication, August 10, 2015). He also pointed out that *Mock* came out of a chancery court in Tennessee and that there may still be appeals to come. Little (2005) indicated that affirmative consent laws in general need not change the burden of proof but simply create a situation where silence is no longer assumed consent.

General concerns. Broader concerns beyond burden of proof have been expressed related to affirmative consent policies. Specifically, some contend that it is simply impractical for colleges and universities to monitor student sexual activity in this way and/or that students simply will not abide by it (Foundation for Individual Rights in Education [FIRE], 2014; Grinberg, 2014; Keenan, 2015). FIRE appears to have a

particular dislike for affirmative consent policies, as well as the requirement that institutions of higher education address these concerns (FIRE, 2014). In a 2014 statement regarding California's proposed affirmative consent laws, FIRE expressed the position that college and university conduct officials were ill equipped to handle issues of sexual assault and that bills such as that passed in California would make the problems worse.

Other concerned parties contend that the affirmative consent laws make all forms of sexual activity a violation of policy (Berstein, 2014; Carle, 2015; Rubenfeld, 2014). Berstein (2014) indicated the only sexual interaction that reaches the threshold of explicit sexual consent is the agreement between a prostitute and that prostitute's client(s). This would make all other forms of sexual contact a violation of policy in its lack of explicit and clear contract. Another concern about affirmative consent policies at colleges and universities is that it is simply too late to be changing sexual interactions of students (Abramson & Dautch, 2014). Abramson and Dautch (2014) argued that these kinds of expectations should be encouraged much earlier and that expecting students to change their framework for consent in college is too late to make substantial changes.

Sobotnik (2008) provided a different perspective in his position that affirmative consent policies were inaccurately supporting the theory of the inherent weakness of women. Sobotnik questioned whether women could accept a policy created on the assumption that women are incapable of saying no. Sobotnik concluded, based on a survey that he conducted with law students, that "fear of rape does not discourage them [women] from allowing a certain amount of aggressiveness on the part of the men they

date, or likely, from wanting it" (p. 860). Based on this premise, Sobotnik continued his argument that affirmative consent policies are undesirable for women.

While Sobotnik (2008) argued that affirmative consent policies perpetuate the viewpoint of women being weak and unable to articulate what they want, this does not account for the possibility that people may not know what they want or may have reasons for not communicating what they want. Muehlenhard, Humphreys, Jozkowski, and Peterson (2016) pointed out two aspects of consent: internal desire and external communication. People who do not know what their internal desires are may not be able to express adequately what is wanted. Furthermore, internal desires might conflict with existing cultural scripts and expectations for behavior. West (2008) pointed out reasons a woman may not communicate what she truly wants: "to avoid a hassle or a foul mood . . . to ensure their [sic] own or their children's safety . . . or to smooth troubled domestic waters" (p. 24). Muehlenhard et al. (2016) pointed out that a physiological reaction does not necessarily match what a person wants. As an example, a man who achieves an erection may not have a desire to engage in sexual contact. This could be problematic for someone attempting to interpret nonverbal communication from that man. Ultimately, while affirmative consent policies may be able to get to the intentional and behavioral aspects of consent, they will not be able to address the actual desire to consent or not to consent.

Some expressions of concerns about affirmative consent policies have come from those who could be affected by them: college students. Humphreys (2004) asked students in a focus group to state their opinion of the Antioch affirmative consent policy.

Most participants voiced concern about the level of difficulty and awkwardness that would come from having to ask for verbal consent for every sexual act within a sexual encounter. One participant summed it up by stating that a partner asking for consent for each act would "get on your nerves" (p. 220).

Consent Research

During the 1970s, 1980s, and 1990s a body of literature focused on sexual initiation, which includes behavior that one might see in a bar: self-grooming, smiling, eye contact, wearing revealing clothing, and so forth. However, research that focused directly on what consent is (versus what consent is not) during that time was rare (Hall, 1998). Even in more recent years, researchers continued to highlight the lack of direct research on consent (Beres, 2007, 2014; Humphreys, 2004). The extant research takes various forms focusing on various aspects of consent, leaving only a shell of this very complex concept. Beres (2007) reviewed sexual consent literature and discussed the various frameworks for defining and conceptualizing consent, pointing out the challenges in defining consent, particularly in a legal framework. Nevertheless, a few researchers have taken on the challenge of studying sexual consent.

According to Beres (2007), prior to 2007, there were only four reported studies on sexual consent behaviors. The four researchers cited by Beres had similarities in their findings that informed later researchers. One of the key findings was that the majority of consent-related communication that occurs prior to and during sex is nonverbal (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys, 2004).

The earliest of the consent studies cited by Beres (2007) was Hall's (1998) study on heterosexual consent behaviors. Hall administered a survey to college students with a specific section focused on consent. This portion of the study asked participants to indicate ways in which they had given consent to a partner in a previous consensual sexual encounter. Responses showed that consent was most frequently communicated nonverbally.

Hickman and Muehlenhard (1999), taking a difference approach, developed an instrument that included a variety of strategies that communicated consent in an imagined hypothetical sexual encounter. All of the scenarios involved one male and one female participant. All participants indicated a higher use of nonverbal communication to give consent than verbal communication. The researchers found that women tended to use indirect verbal signals (asking for a condom) more frequently than men, while men tended to use more indirect nonverbal signals (kissing, fondling, etc.).

Beres et al. (2004) focused their study on consent in same-sex relationships. In addition to finding that partners utilized nonverbal communication more extensively than verbal communication for sexual consent, the researchers found that men who had sex with men tended to use more nonverbal consent communication than did women who had sex with women. This gender difference is consistent with Hickman and Muehlenhard's (1999) findings in the male-with-female sexual framework.

The Humphreys study, also published in 2004, was a mixed-methods study. Humphreys focused most of the discussion on the qualitative data collected via focus groups. Similar to other studies to date, Humphreys found that participants indicated the

use of a combination of verbal and nonverbal communication when providing consent. Distinct from other studies, Humphreys found a difference in men's and women's responses about the nature of consent: Women generally described consent as a process over the course of the sexual interaction, while men described consent as a singular event. Humphreys gathered opinions about verbal consent and found that many of the respondents stated that asking for verbal consent was awkward, relying more heavily on a give-and-take of nonverbal and indirect verbal cues.

Since 2007, there have been a couple of consent studies, one of which was conducted by Kristen Jozkowski. Jozkowski's work on sexual consent appears to have begun in 2011 with her dissertation on conceptualizations of sexual consent. Contrary to previous research, Jozkowski found that participants in her study utilized verbal cues more frequently that nonverbal cues to indicate consent. The order of consent cues from most frequently used to least frequently used was direct verbal cues, direct nonverbal cues, no response, indirect verbal cues, and indirect nonverbal cues. Jozkowski (2011) found similarities with the work by Hickman and Muehlenhard (1999) and Beres et al. (2004) in that men were more likely than women to rely on nonverbal communication.

In addition to information regarding the use of verbal and nonverbal communication for consent, the consent literature makes reference specifically to inaction or silence as a mechanism for consent, which is in direct conflict with many affirmative consent policies. Hickman and Muehlenhard (1999) indicated that the primary way in which participants communicated consent was by making no response. This held true for same-sex couples in the Beres et al. (2004) study, where men having

sex with men and women having sex with women indicated that silence and lack of resistance were ways of indicating consent for the sexual activity. As in other studies, Humphreys (2004) found that participants used forms of nonresistance as a mechanism for consent. Jozkowski (2011) also found lack of resistance to be a way that participants indicated consent, although, unlike some of the earlier research, it was not the main form of communication. This trend to no response indicators was also present in a study by Jozkowski, Sanders, Peterson, Dennis, and Reece (2014).

The final consent studies of note included a different approach to examining consent. While these researchers (Beres, 2010; Jozkowski, Sanders, et al., 2014) looked at similar external consent indicators as those examined in previously cited research, they also looked at internal feelings related to consent. Jozkowski et al. put a different lens on concepts of consent to assess the level of internal consent perceived by the participants. A key finding was that men and women tended to have different levels of feelings about their engagement in sexual activity, noting that women may feel more conflicted about consent. Beres's research focused on the internal knowing that the partner was "into" sex. Specifically, Beres determined that tacit knowing that the other party was in favor of sex was a significant aspect of consensual interactions. This knowing came from contextualizing the sexual interaction and behaviors of sexual partners.

Sexual Scripts

Sexual script theory was developed by Simon and Gagnon. The two theorists began their work on this theory in the late 1960s and published an initial work on their

ideas about sexual interactions in 1973 (Simon & Gagnon, 2003). The basis for sexual script theory is that sexual interactions are not bound by biological impulses, as was the common belief at the time that Simon and Gagnon created their theory. The theorists rejected outright the biological framework, indicating that "the sexual encounter remains a profoundly social act in its enactment and even more so in its antecedents and consequences" (Simon & Gagnon, 2003, p. 492).

Simon and Gagnon (1984) began their discussion of sexual script theory by providing an understanding of scripts, which are ways to look at the reasoning behind human behavior. These scripts come from three sources: "cultural scenarios, interpersonal scripts, and intrapsychic scripts" (p. 53). Cultural scenarios are based on social expectations of behavior. However, these scripts are limiting and do not solely dictate behavior, as individuals regularly veer from social expectations. In order to explain these deviations from cultural expectations, one must look at interpersonal scripts that place an individual in the role of script writer instead of relying exclusively on the scripts created through society. Intrapsychic scripts dig deeper into the actor's needs and desires, where fantasy lies. Intrapsychic scripts may be played out in fantasy. When layered over cultural scenarios, the actor places value on these deep desires and fantasies and this value becomes a part of the self.

In applying scripts to sexual interactions, Simon and Gagnon (1984) contended that sex does not have an innate value but, instead, value is placed on sex either through cultural values or through a specific individual sexual situation that results in the actor placing value on it. Each aspect of scripts interacts with sexuality in different ways.

Simon and Gagnon cited subcultures of sexuality that develop when behavior does not match the mainstream cultural scenario. Sadomasochistic sexual culture may be an example of this. In evaluating the interpersonal scripts relating to sexuality, Simon and Gagnon first discussed gendered differences in which cultural scenarios influenced the interpersonal. This was specifically clarified by indicating that rarely were women in a role of actor, as most scripts involved a focus on male satisfaction (Simon & Gagnon, 1984). They equate the actor's sexual partner as a Freudian object, clarifying that in sexual interactions the actor must consider the object as a participating other that then transforms into another self. This connects to the last part of the theory: intrapsychic scripts. Due to the lack of ability to express desires in the actor's day-to-day life, the erotic becomes the release of these desires, allowing the actor to be his or her full self. Gender continues to play a role in the intrapsychic (and heteronormative lens), with the male able to take possession of the desired: the woman.

Researchers' Use of Sexual Script Theory

While Simon and Gagnon (2003) admitted that their theory was not intended to provide meaning and understanding for all forms of sexual interactions, a few of the researchers who have studied sexual consent have used sexual script theory as a framework for their research. Hickman and Muehlenhard (1999) were the first to apply this theory to a study focused specifically on consent. Their reference to sexual scripts in their research was minimal and focused on traditional sexual scripts that are heteronormative and place the male in the role of the actor and the woman in the role of the receiver. Within this framework is an assumption that men are most frequently the

ones who interpret consent messages. Hickman and Muehlenhard's research focused on imagined sexual scenarios in which the participant imagined a sexual situation in which the individual or that individual's date initiated sexual contact. Hickman and Muehlenhard speculated that it may have been difficult for participants to imagine scenarios outside of their traditional scripts, resulting in most imagined scenarios involving the male as the actor and the female as the recipient. Their data indicated that the female participants had a greater degree of difficulty in imagining themselves initiating sexual interaction. That study, although just the second consent study to be conducted, was groundbreaking in that the researchers developed an instrument that would be used later by other researchers. However, the researchers' choice to focus on traditional sexual scripts limited the applicability of the study to sexual interactions that conform to heteronormative sexual interactions. Specifically, the language used in the developed instrument was specific to male-with-female sexual interactions and could not be directly applied to male-with-male or female-with-female sexual interactions or to individuals who do not identify with a gender binary.

Beres et al. (2004) took Hickman and Muehlenhard's (1999) research to the next level by specifically looking at consent in same-sex relationships. They cited a study that applied sexual script theory to same-sex relationships, providing different scripts for men dating men and women dating women. This framework suggested that in male relationships there was no receiver or "gatekeeper" and in female relationships there was no initiator. Beres et al. found that there appeared to be no distinct sexual script differences between male and female participants, which they concluded supported their

hypothesis of the lack of gatekeeper and initiator roles in same-sex relationships. They suggested that the lack of traditional roles in these relationships allowed for more flexibility of role in same-sex sexual interactions. This speculation could certainly be studied more closely.

The final study of focus in this section is one conducted by Kristen Jozkowski (2011), who utilized mixed methods in her dissertation research. Jozkowski included a wealth of perspective on various types of sexual scripts. The first reference to scripts in Jozkowski's dissertation was related to rape scripts, which for some women may become normalized and influence future sexual interactions. She also discussed traditional sexual scripts that imply that men are always open to sex. She pointed out that verbal consent has not traditionally been a main component of sexual scripts, potentially making strictly verbal affirmative consent policies unrealistic within the traditional script patterns. A critical finding in Jozkowski's research was that the scripts of the participants in her study utilized more verbal cues than had been seen in previous studies, showing the possibility of shifted scripts over time. This provides some indication that sexual scripts can change between generations. Furthermore, this provides hope that sexual scripts may be shifted to include more explicit communication through education and policy.

One thing that was made apparent in Jozkowski's research is that there are many types of sexual scripts. Until Hall's (1998) study, no one looked at the specific scripts related to consent. While Hall did not discuss sexual scripts, the collected data contributed to this concept. Although the studies on sexual consent provide some contexts for components of a consent script (Beres et al., 2004; Hall, 1998; Hickman &

Muehlenhard, 1999; Humphreys, 2004; Jozkowski, 2011), there are still many grey areas that are unclear. It is not known whether any of those behaviors always means consent. An example of this is the consistent finding that some perceive silence or lack of resistance as a form of consent (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Humphreys, 2004; Jozkowski, 2011), but this may also be an indicator of tonic immobility that occurs when someone is experiencing a traumatic event (TeBockhorst, O'Halloran, & Nyline, 2015).

Chapter Summary

It is clear that there is significant attention on the issue of sexual violence on college campuses throughout the United States. This attention has come through federal legislation, state laws, and statements by politicians, advocates, and survivors, as well as a flurry of media attention. The reality is that this attention comes due to the serious negative impacts of sexual violence on individual survivors, as well as on the community. Action to change the climate of violence has included a focus on a requirement for institutions of higher education to publish a definition of consent (VAWA, 42 U.S.C. § 136). Many have interpreted this as a requirement to create institutional or state definitions in the higher education context.

These definitions are, in some cases, affirmative consent definitions that include opportunities for nonverbal communication of consent (Cal. Com. Code § 67386; N.Y. U.C.C. Law § 6441; Texas A&M University, 2015). Despite these affirmative consent policies, there is little research on what constitutes consent, resulting in policy makers creating policies without a substantial body of research to support the creation. In the

meantime, a look at other resources beyond research focused on consent, such as state laws, also shows a lack of information about what constitutes consent. Much of state law focuses on what consent is not.

One may find many opinion pieces in favor of or against affirmative consent policies. The available research indicates that individuals' perceptions of consent do not match aspects of affirmative consent policies. This is demonstrated by many respondents across studies indicating that failure to resist and/or silence are indicators of consent, and yet affirmative consent policies often indicate that failure to resist and/or silence do not indicate consent. A closer inspection of what constitutes consent, particularly nonverbal consent, may help personnel at institutions of higher education with education and policy development.

A theoretical framework assists in providing structure for this research on nonverbal consent. Sexual script theory provides a general constructivist framework to human sexual interactions. Combining cultural scenarios, interpersonal scripts, and intrapsychic scripts leads to the complex landscape of each individual's understanding of sexual interactions that may be applied to consent in the sexual context. The researchers cited in this literature review who studied consent all utilized sexual script theory as their theoretical framework. The use of this framework could be enhanced through continued study of this topic.

CHAPTER III

METHODOLOGY

Research Design

Previous researchers who focused on consent have approached their studies in a variety of ways. Consent research began with Hall (1998), who vetted participants for the consent portion of his research by asking whether they had previously provided consent to a partner. These individuals were then asked via a survey to describe the sexual encounter and then to identify from a list of behaviors what had occurred and in what order. While the study had some narrative components, it was largely a quantitative analysis of consent behaviors. Similarly, later researchers have utilized quantitative analysis. Specifically, Hickman and Muehlenhard (1999) created an instrument to measure verbal and nonverbal sexual consent indicators. That survey was largely heteronormative but was modified by Beres et al. (2004) to focus on same-sex relationships. The modified survey was used later by Jozkowski (2011) in a mixed-methods study for her dissertation research.

Quantitative Design

The initial inclination for this study in the early stages of problem development was to conduct a quantitative study that would be generalizable and assist policy makers and administrators in addressing issues of consent on campuses. While informative in many ways, the existing studies have not appeared to provide much assistance in these areas. Some of the most useful aspects of these studies involved providing information regarding the use of nonverbal communication by the participants in all of the studies.

Many participants in these studies indicated that a way they communicated consent was by failing to resist. These findings are particularly salient, given that the Antioch policy allows only for verbal consent (Antioch College, 2015) and other affirmative consent policies specify that there must be active communication for consent to be present (N.Y. U.C.C. Law § 6441; Texas A&M University, 2015; University of California, 2015). This conclusion puts lack of resistance into a non-consent category. Despite the discovery of these mechanisms to communicate consent, policies continue to include these restrictions. Policy makers' failure to utilize the extant research in formulating their policies is certainly not due to having used quantitative analysis; the purpose behind using a quantitative analysis for the present study cannot be based on the hope that people will use this information for policy development or enforcement.

The decision regarding whether to utilize a quantitative method was next examined by turning to the wisdom of researchers who had already delved into this topic. Humphreys (2004) pointed out that the lack of research to date on this topic lends itself to qualitative analysis, as this provides an initial discovery of the topic that may better inform later researchers in their quantitative analysis. Beres (2007) also strongly advocated for qualitative analysis, which "allows for the integration of context with the findings and can present a more complex picture of sexual consent" (p. 104). What Beres implied is that quantitative research on this topic, given the lack of research to date, is incapable of producing the level of depth and context that is needed for this topic. This was supported when Beres (2010) later conducted an in-depth qualitative study on sexual miscommunication that included aspects of consent. While there are

some developed instruments that may provide opportunities for quantitative analysis, more may be gleaned from a qualitative analysis of nonverbal sexual consent.

The final factor in considering qualitative analysis was based on sexual script theory. Sexual script theory provides a context in which current sexual behaviors are influenced by three factors: "cultural scenarios, interpersonal scripts, and intrapsychic scripts" (Simon & Gagnon, 1984, p. 53). As a part of this context, there may be significant cultural scenarios that lead to development of sexual scripts. These cultural contexts may change over time. Using an instrument developed 17 years ago, even if thoroughly and richly developed and with more current modifications could result in missing key aspects of consent that may have shifted over that time.

Qualitative Design

Snape and Spencer (2003) pointed out in their chapter in *Qualitative Research Practice: A Guide for Social Science Students and Researchers* that "qualitative methods are used to address research questions that require explanation or understanding of social phenomena and their contexts" (p. 5). This is exactly what is currently needed in the research on consent. Humphreys (2004) conducted one of the earliest qualitative studies on consent. In this study, Humphreys' utilized focus groups to understand the type of language that students at that time were using as it pertained to consent. Humphreys ultimately employed this information to create a quantitative instrument to measure attitudes toward sexual consent, Antioch's affirmative consent policy, and consent behaviors. Humphreys's analysis of the initial qualitative data included assessing the frequency of word use and basing themes on this word usage. While Humphreys stressed

the need for qualitative analysis of perceptions of consent, he used it in a limited way. The analysis was less about thematic concepts and more focused on individual words in order to place those words into a quantitative framework. Furthermore, while focus groups are an effective way to collect rich data from participants because ideas from one individual may trigger thoughts from another, the group setting provides less opportunity to go deeper with the individuals in the group. Humphreys conducted only three focus groups, two with women, one with men. This narrow number of focus groups limited the ability to adopt a fully flexible research strategy emphasized by Lincoln and Guba (1985) and Snape and Spencer (2003).

Other researchers who have utilized some degree of qualitative analysis are Jozkowski (2011) and Jozkowski, Peterson, Sanders, Dennis, and Reece (2014). These researchers used qualitative analysis of responses to a survey that had both closed and open-ended questions. While their analysis of the responses to the open-ended questions was a ground-up approach and more concept based than that by Humphreys, the use of a survey instrument to gather this information did not allow for the naturalistic process emphasized by Lincoln and Guba (1985) that involves ongoing modification of method as new and rich data are collected over time. Snape and Spencer (2003) listed the main forms of qualitative methods and open-ended survey questions that are glaringly missing from this list.

Beres (2010) conducted a more in-depth qualitative study of sexual miscommunication that incorporated aspects of consent. While Beres honored the full naturalistic process, the study was more broadly tailored than the current study. Beres

looked into communication in sexual situations, specifically looking at both affirmative consent and refusal cues.

It was decided that, for the purpose of addressing the research questions posed in Chapter I, a phenomenological qualitative study was the most appropriate. This came from ruling out other forms of qualitative methods that may not be as appropriate at this stage of the available research on this topic. Ethnography was a fairly easy methodology to rule out, given the topic of study. Moore's (2002) discussion on ethnography in human sexuality studies was limited to observations outside of the private spaces where sex typically occurs, implying that ethnographic studies on sexuality have not traditionally been taken further than flirting and initiating behaviors. While I may have immersed myself in the culture of current traditional-age college students generally, embedding myself in their bedrooms or other locations where they might choose to engage in sex (study rooms, cars, bar restrooms, etc.) would not only be awkward but completely inappropriate. Alternatively, I might have been able to conduct ethnographic work by being immersed with traditional-age college students who were engaged in conversations about consent and sex, but the time and opportunity for this type of analysis would be too burdensome for the purposes of this study. Furthermore, my age and lack of status as an undergraduate or younger recent graduate student might have affected the conversations by students if I were present.

One or more case studies would also have been problematic in the level of depth that would be required. Given the multiple aspects of data collection that would be necessary to gain sufficient depth for a case study analysis, there would have been

challenges with confidentiality on a topic that is sensitive to many. For example, a way of collecting multiple views on sexual activity might involve interviewing all parties involved in a specific consensual sexual encounter, in addition to friends with whom the parties may have discussed the encounter. This would have resulted in clearly identifiable information between participants that could lead to interpersonal disruptions. Furthermore, a broader scope on this topic seems more helpful at this time. While a case study analysis could be fascinating, it was not deemed to be appropriate to the current study.

The last consideration for study design was that of a phenomenological study implemented through individual interviews and focus groups with the target population. Phenomenology "is a study of phenomena" (J. Smith, 2016, p. 1). For this study, the phenomenon was consent in a sexual interaction. Smith explained that phenomenology is focused on explaining things that are experienced. This was directly applicable to this study in that participants who had experienced giving and receiving consent in a sexual encounter were invited to provide insights into what constitutes nonverbal consent. In phenomenological studies, information that is collected, mostly from interviews and/or focus groups, is analyzed thoroughly to isolate specific concepts and develop global themes, which assist with understanding a topic (Kruth, 2015). This type of study provided opportunities to adopt a flexible research strategy, as suggested by Lincoln and Guba (1985) and Snape and Spencer (2003). A phenomenological look at this subject connected directly with the research questions. Snape and Spencer explained that phenomenology creates an "understanding [of] the 'constructs' people use in everyday

life to make sense of their world" (p. 12). This is particularly relevant to understanding what current traditional-age college students believe communicates consent nonverbally, as well as what messages contribute to this belief.

Research Application

The application of the qualitative design is multifaceted. The research application includes participant selection, recruitment, instrumentation, procedure, data analysis, quality and rigor, and limitations. These aspects of this study are described herein.

Participants

To address the research questions, I utilized a sample of 27 current traditional-age college students, ages 18 to 24 years. Given the scale of this study, the participants were limited to those who identified as cis gender and had had consensual sex with someone of the opposite sex. *Cis gender* describes those whose gender identity matches their sex assigned at birth. The participants were allowed to apply their own definitions of what constitutes sex. Outside of age, the sex of a participant's former sex partner(s), and gender identity, I attempted to allow for a representative sample of the population in terms of race, gender, ability, socioeconomic status, and so forth. Demographic information about the participants is reported in Chapter IV. All participants attended a large, public, four-year institution in the southwestern United States.

The sample size was determined based partially on data saturation. Data saturation occurs when no more information can be gleaned from additional interviews (Ritchie, Lewis, & Elam, 2003; Y. Lincoln, researcher, personal communication, February 1, 2016). Lincoln indicated the likelihood that the sample size, when based on

saturation, would generally be 12 to 20 participants. Using saturation assists in ensuring that all relevant information that may be gleaned from the process is collected. In this study, 10 women and 6 men were interviewed. Two more men and nine more women participated in focus groups. This number of contacts with participants fulfilled saturation as no new data would be gained from additional interviews. Prior to any interviews or contact with participants, approval was gained from the applicable institutional review board.

Recruitment

I attempted to recruit people who were one degree removed from myself (the person knows someone whom I know) to assist in building trust with them. This was done by sending an email to colleagues with basic information about my study (Appendix D). I asked those colleagues to share the information with students. This email contained my contact information and invited potential participants to contact me directly without my colleagues knowing whether the student had done so. This ensured that there was no breach of privacy through this recruitment mechanism. Once a participant contacted me, I sent additional information about the study (Appendices E and F). There was one standardized email for the individual interviews and another for the focus groups. I asked them to read the additional information and let me know if they were still interested. Once they indicated continued interest, we scheduled a time for the process. Some students received an extra credit incentive through an academic course. Specifically, a faculty member heard about the study and informed students that they could receive extra credit for participating in the study. (The faculty member also

offered extra credit options that did not involve participation in a research study.) Participants who were not enrolled in this course during the time of data collection were not given extra credit.

Instrumentation

As pointed out by Lincoln and Guba (1985), the researcher is the primary instrument for a qualitative study. I asked the questions and modified them as necessary to honor the naturalistic process of qualitative inquiry. I organized, analyzed, and made meaning of the data. Others assisted in fine tuning this instrument, including the dissertation committee, peers, and other faculty.

I used individual interviews in combination with focus groups to collect my data. Ritchie (2003) pointed out that individual interviews provide focus on the individual. This in-depth individual focus was missing in the previous studies on consent. This process also allowed a greater degree of flexibility in the research design; over time I was able to gain insight into the types of questions that should be asked as participants led me on a path to a clearer understanding of the topic. This is a demonstration of how I, too, was an instrument through this process. The initial protocol for interviews may be found in Appendix G. The focus groups were conducted after the interviews for each gender were completed. The focus groups were focused on the scenarios provided in the interviews (Questions 10.a. and 10.b. in Appendix G). The initial protocol for the focus groups is located in Appendix H.

These two methodological instruments, individual interviews and focus groups, were chosen as other forms of qualitative instrumentation have significant drawbacks in

this type of a study. Observation would have required obtaining consent to observe sex acts. While there are sex labs that conduct this type of study on a variety of sexual functions (Lankveld et al., 2014), behaviors are influenced in that environment. In a study on consent, the participants would have needed to know that they were entering into a situation in which sex would likely be occurring, which would have inevitably influenced their consent behaviors, giving both participants the expectation that sex would occur. The underlying assumption that sex would occur could have reduced the level of communication in the interaction between participants.

Document analysis would also have been difficult. While a 2007 Sexual Consent video posted by user Protonicson to YouTube shows an acted out scene of two apparent college students in a residence hall room signing a sexual contract with the help of their attorneys, finding actual documents that provide information about consent, specifically about nonverbal consent, would have been difficult if not impossible, especially if looking for nonfiction works. Works of fiction may be somewhat useful but are more likely to be focused on the imaginary and fantasy. Sexual script theory (Simon & Gagnon, 2003) might classify many of these books as representing the intrapsychic aspect of sexual scripts that are focused on the internal desires of individuals, which rarely come to full life in actual sexual scenarios as they are influenced by cultural scenarios and interpersonal scripts. This type of document analysis would have given only a narrow look at consent that was also not steeped in reality. Furthermore, many of these books may overlook sexual consent moving to situations where consent is distinctly not present (Philadelphoff-Puren, 2005).

Instrument Changes

Three notable instrument changes occurred during the interviews, all additions to the original protocol. The first adjustment was to the first question, "What is sex to you?" (Appendix G) As the first two participants provided perceptions of sex that were centered on feelings that come from being intimate with a partner, I began to ask a follow-up question, when necessary, about what physical acts they believed constituted sex (Appendix I). At times I needed to clarify that *sex* meant the act of having sex, not sex assigned at birth.

The second addition to the protocol was an additional sub-bullet to Question 8. Question 8 identifies specific types of nonverbal interactions and asks participants to express whether those acts communicate an interest or "being into" the sexual activity. Specifically, I asked how communication through social media and electronic media may influence the consent conversation, such as sending nude photos to a partner, using the eggplant or peach emoji, and so forth.

The last addition to the interview protocol was to ask whether the participant agreed that a consensual sexual exchange could occur only through nonverbal communication. Many participants referred to verbal communication in their answers to earlier questions; this question helped to clarify whether they agreed that the verbal exchange was necessary. Although numbered Question 11, the question was asked before the participants were asked to write the sex scenarios (Questions 10.a and 10.b, Appendix G), which were part of the original study protocol. These sex scenarios were

stories that participants were asked to write about two individuals engaging in a consensual exchange that resulted in sex.

Changes to the protocol occurred during the focus groups. These additional questions are contained in Appendix J. More questions were added to the focus group protocol than to the interview protocol as the nature of the focus group allowed for emergence of additional concepts. As discussion occurred during the focus groups, the topics of context and lack of resistance were given attention, resulting in additional questions on these issues. Finally, a general question was added at the end, inviting participants to make generalized comments about consent.

Procedure

I interviewed 6 men and 10 women. The interviews contained questions that elicited responses about the participants' thoughts and beliefs about nonverbal sexual consent, as well as descriptions of the influences that had led to their understandings of sexual consent (Appendix G). In order to reduce participant burden, I worked around participants' schedules to find times that were the easiest for them so the participant could focus fully on the interview without distractions from other things going on in their lives. Specifically due to work with the college student population, I avoided times close to exams, particularly finals. I also avoided break periods, as it is likely that many students were traveling and would be more difficult to access. A few participants had last-minute needs to reschedule, which were accommodated. I assured them that rescheduling was not an issue. When one participant did not appear for his interview, I sent an email to verify that he was okay but did not pursue the issue any further.

Legard, Keegan, and Ward (2003) pointed out that the length of an interview should be determined by the interviewee and should not be constrained by the researcher. The interview should be as long as needed to allow the interviewees to fully express themselves. However, they stated that a typical interview should be scheduled for an hour. While the interview may last longer than an hour if the interviewee has more to say, it should not exceed 2 hours, as this may lead to significant fatigue in both the interviewee and the interviewer, which could result in a lack of focus. Thus, the questions should be carefully crafted and limited in order to not regularly exceed this amount of time. Individual interviews with participants did not exceed 1 hour. Approximately 5 minutes were spent reviewing the informed consent form. The next 20 to 30 minutes were spent in asking questions found in Appendix G and after the first two interviews those found in Appendix J. The final 25 to 30 minutes were spent on Questions 10.a. and 10.b., in which participants were asked to write fictional sexual scenarios (participant-created scenarios). Both questions required participants to write sexual scenarios depicting consensual sexual interactions between two parties who utilized only nonverbal communication. The first scenario that participants wrote (in response to Question 10.a.) depicted a simple sexual scenario in which nonverbal consent communication was clear. The second scenario (in response to Question 10.b.) depicted a complicated sexual scenario in which consent communication was more complicated or confusing. Detail on each part of the protocol is presented below.

While participants were informed during the consent process that I might contact them again at a later date in case there were questions about their answers, I did not need

to utilize this additional time with participants. Participant answers during the interview process were clear enough for a thorough analysis of the information.

The protocol for each interview followed a general standard procedure (Appendix G and Appendix I). All interviews were conducted in a private office located on the campus where the study took place. This location had no distractions and was a place where the interviewee could feel comfortable to speak freely (Legard et al., 2003). Most interviews were recorded with the interviewee's consent and later transcribed to provide the greatest accuracy in data collection. Legard et al. pointed out that this allows the interviewer to pay attention to what is being said, without the necessity of taking detailed notes. One interviewee did not consent for the interview to be recorded, in which case I relied on detailed notes of the interview.

At the beginning of each interview, I introduced myself and asked the participants about their semester. While this was not part of the data collected, it assisted in building rapport. Once the short rapport building was done, I initiated the informed consent process. I told each participant that, if he or she wished to stop participation at any time, it would be perfectly okay. As a part of the consent process, I talked about the purpose of the study, how many people would be participating, risks, and so forth (Appendix K). Given the sensitivity of the topic, it was important to ensure that the participants understood that the interview would be kept confidential and that no identifying information would be contained in the dissertation (Legard et al., 2003). It is interesting that some participants, when asked whether they had a preferred pseudonym or would like me offer one, indicated I could use their real names. While I appreciated

the offer, I assigned pseudonyms for all participants who did not provide one. Finally, I gave the participants' ample time to ask any questions about the interview protocol and repeated that they could withdraw consent to participate in the study at any time during the interview. I also informed each participant that I might reach out later to clarify information in the interview or possibly to ask more questions if needed.

In recorded interviews, I made it clear when the recording device was on and when it was off. The recording device was turned off during Questions 10.a. and 10.b., as the participants wrote scenarios. During this time I walked away from the table and worked on other miscellaneous things so that they did not feel that I was staring at them, but I was close enough to answer clarifying questions about what they were doing.

During the focus groups, I presented simple and complex consent scenarios based on the participant-created scenarios written by participants during the interviews in response to Questions 10.a. and 10.b. The simple and complex scenarios covered the themes discovered through analysis of the participant-created scenarios provided during the interviews. I conducted four focus groups. At the beginning of each focus group, I engaged in similar welcoming behavior and rapport building as was utilized in the interviews. I started the formal part of the focus groups with the informed consent document for the focus groups (Appendix L). Similar to the interview consent form, I reviewed information about the study, risks, and so forth. Due to the nature of the focus groups, the privacy portion of the consent form was different. Specifically, it stipulated that "other people in the study who are present during any focus groups you choose to

attend will have knowledge of your expressed viewpoints and perspectives" (Appendix L). Once I was sure everyone understood each aspect of the consent form, I proceeded.

During the focus groups, I facilitated open discussion of the scenarios (Appendices M and N). Both scenarios were based on themes collected during interviews. The simple scenario (Appendix M) was based on the simple participant-created scenarios and the complex scenario (Appendix N) was based on the complex participant-created scenarios. The initial prepared questions for the focus groups can be found in Appendix H. During the first focus group, other questions emerged as part of the naturalistic process; these questions were subsequently used with future focus groups (Appendix I).

Data Analysis

The analysis of the scenario data occurred first, as this affected my ability to proceed with the focus groups. I took the completed participant-created scenarios and unitized them. I looked for common elements and themes, comparing the simple scenarios with each other and the complex scenarios with each other. I tallied the number of times items were referred to in the scenarios. I looked through the participant-provided scenarios no fewer than three times to identify nonverbal behaviors (see the table in Chapter IV). Finally, I created the two scenarios (simple and complex) utilized and discussed in the focus group sessions, based on the most frequently observed items. Prior to using these scenarios with participants in the focus groups, I asked peers to review the simple and complex scenarios to determine whether they made sense and

whether they had any concerns with the scenarios. The simple and complex scenarios may be found in Appendices M and N.

The analysis of all data from interviews and focus group questions was conducted through content analysis (Spencer, Ritchie, & O'Connor, 2003). As each transcript was created, I unitized the data to find the unique individual concepts within each transcript (Lincoln & Guba, 1985). In order to create unitized data, I read through each transcript thoroughly, assessing each word, sentence, and paragraph to determine whether the word, sentence, or paragraph had a unique message or meaning. I made data cards representing each individual concept. These unitized concepts varied in length, from very short to a full paragraph. The length of the unit of data was based on what encompassed the concept in question. I then began categorizing the data. Categorization involved placing concepts that match into shared groups. Lincoln and Guba provided an in-depth description of this process, starting with the first unitized concept. I read each unitized piece of information and decided whether the concept matched any of the earlier concepts. Groups of concepts were labeled with a category name that was later converted to a conceptual theme that was informed by all of the concepts within that category.

The process of unitizing and categorizing was ongoing as more transcripts were written. As the process continued, I called into question categories that no longer seemed independent as I saw more refined categorizations of the cards within individual card groups. As this occurred, cards were moved. Furthermore, I noticed some unitized data should be split as it fell within multiple categories. Additional cards with the separated

content were written and placed. This is true to the naturalistic inquiry and constructivist principles (Lincoln & Guba, 1985). The progression of processing and sorting cards continued into the process of writing the results chapter. As I re-read the unitized data to articulate the developed themes fully, I noticed unitized items that fit into other developed themes and moved cards or created duplicate cards in those situations.

Quality and Rigor

There are several ways to ensure quality and rigor in a qualitative study. Guba and Lincoln (1981) provided a chart focusing on this issue (Appendix O). Specific considerations highlighted by Guba and Lincoln included factor patternings, situational uniqueness, instrumental changes, and investigator predilections. Ruel, Wagner, and Gillespie (2016) pointed out that the researcher should focus on the integrity of the questions asked throughout the process. This section reviews each of these concerns and strategies used to ensure rigor and quality.

Ruel et al. (2016) discussed the importance of carefully thought-out questions for surveys. While this study was not based on a survey, aspects of their discussion are applicable to the quality and rigor of this study. Specifically, Ruel et al. discussed face value validity of questions, meaning that the questions ask what they are meant to ask. To ensure that the interview questions were meaningful, I conducted a review of the questions with the dissertation committee. I received feedback that led to more simply stated questions. This assisted in ensuring that the questions were clear and useful. Despite this review, modifications were still needed as discussed above in the section on instrument changes.

Relating to specific concerns presented by Guba and Lincoln (1981), the first potential concern is factor patternings that may result in a lack of appropriate interpretation of data. One way to ensure that the information is accurate and understood is to provide each interviewee feedback. This feedback was largely done during the interview process through reflective listening and summarizing to ensure that I was understanding what was shared. Cross-referencing the data with the interviewees is not the only way to establish rigor in this area. Another method is to use peer debriefing with other doctoral students and/or faculty. I discussed emerging themes with peers and faculty throughout the process. I also shared an outline of emerging themes with the dissertation committee chair to ensure that I was on the right track with both logical outcomes and general expectations.

Situational uniqueness was cited as important by Guba and Lincoln (1981), referring to the quality and rigor in purposeful sampling from a theoretical framework and ensuring that collected data are rich and descriptive. This aspect of rigor was managed through use of sexual script theory as a theoretical lens and the narrow selection of participants. Furthermore, collecting data through the high end of typical saturation provided the depth of information needed for this type of qualitative study.

Instrumental changes may affect the quality and rigor of a study (Guba & Lincoln, 1981). While instrumental changes are a part of the naturalistic process as collected information may lead to deeper and richer questions, I documented each of these changes throughout the data collection process (see the instrument change section

above). This documentation of changes allows someone reading about the study to understand the study process, giving it a higher level of transparency.

I addressed investigator predilections (Guba & Lincoln, 1981), which may cause bias, by confirming information with the participants. Specifically, member checking ensured that I fully understood their perspectives and reflected those accurately. This allowed me to assess whether my own bias might be shading the information. When my reflections did not match what a participant was communicating, I could adjust the data. At times during the interview process, participants made statements about things with which I fundamentally disagreed. I was very conscious of maintaining a neutral tone and neutral language when asking clarifying questions and reflecting information. The log of my confirmations was kept through the recordings of my reflection of the information and was subsequently transferred to the transcript. An additional component of addressing investigator predilections included triangulation. Triangulation involves utilizing multiple forms of data collection that may then be compared (Shenton, 2004). For the purposes of this study, the use of the scenarios and focus groups provided a mechanism to compare the resulting units of data and developed themes. All of these strategies to ensure rigor assist with trustworthiness of the results.

Limitations

Limitations of the study are acknowledged. First, information regarding nonverbal consent is based on self-report. This type of information fails to provide direct observation of what individuals may interpret to be nonverbal consent. Later research using subjects in moments of consent or interpreting videos of others' nonverbal consent

may lead to a deeper understanding of unconscious interpretations of nonverbal behaviors and/or more subtle nonverbal communication that individuals are not able to identify.

Second, challenges arose during recruitment, particularly of men. Several men asked whether there would be compensation for participation and, when informed that there was no monetary compensation, opted not to participate. Future researchers may want to consider a monetary incentive to assist with recruitment. While monetary incentive may assist in gaining more participants, this method of recruitment may also cause additional problems. Specifically, due to the topic matter, people may have negative feelings about being paid to speak about their sex life, given current societal viewpoints on behaviors such as prostitution. Furthermore, participants may be more inclined to say what they believe the investigator wishes to hear, similar to a paid consultant framing outcomes to address goals of the hiring entity. Through discussion with peers, there was also some speculation that my identity as a female may have impacted cis men's willingness to participate in the study. Future researchers may wish to have interviews with men conducted by a man. As a result of these challenges, the number of men involved in the interviews and focus groups was less than that of women.

Third, there are limits on the information collected regarding cultural influences on sexual scripts. Relying on participants' memory of what influenced these perceptions of nonverbal consent will likely not produce the full range of items that have in fact influenced those perceptions. These types of influences are often difficult to measure and the participants' self-report on this issue can provide only a limited perspective. Further

research in the future focusing on public policy or targeted intervention may assist in understanding these influences.

Chapter Summary

This study was a phenomenological qualitative study utilizing individual interviews, fictional narrative, and focus groups. Participants were cis gendered traditional-age college students who had experienced consensual sex with someone of the opposite sex. Six men and 10 women were individually interviewed and a different set of two men and nine women were engaged in single-sex focus groups, with no more than three persons per focus group. Quality and rigor in the study were ensured through careful instrument development, unitization of data, member checks, and triangulation.

CHAPTER IV

DATA PRESENTATION

This chapter reports the results of this qualitative study pertaining to the four research questions:

1. What do current traditional-age college students (see Appendix A, Definition of Terms) believe to be external nonverbal indicators of consent between two adult individuals when there are no questions of incapacitation (see Appendix A, Definition of Terms)?

2. What do current traditional-age college students believe to be a simple and obvious indicator of nonverbal consent between two adult individuals when there are no questions of incapacitation?

3. What do current traditional-age college students believe to be complex indicators of nonverbal consent between two adult individuals when there are no questions of incapacitation?

4. What messages have current traditional-age college students received about what consent is?

The chapter includes results that go beyond the research questions, as naturally occurring information arose through the qualitative inquiry process. The chapter begins with a look at how participants defined *sex*. Next is information pertaining to the participants' position that nonverbal indicators can be used solely as a mechanism to acquire consent in a sexual context, which leads to specific behaviors identified and discussed as contributing to consent communication. The section on identified nonverbal

indicators includes data collected from the written scenarios provided by participants regarding simple and complex nonverbal sexual interactions. Addressing the research questions is information about who had provided messages to participants and what and when this information was provided. While information pertaining to the research questions is vital to this study, naturally surfacing data above and beyond these questions is included in the final section. This final section includes themes of context, social constructions, verbal sexual communication, personalization, eliminated factors, and challenges in answering questions.

It is important to note some basic demographic information about the participants to assist in contextualizing the data reported in this chapter. Participants self-selected into the study. All were between the ages of 18 and 24 and attended a large 4-year public institution in the southwestern United States. Table 2 contains summarized information about the participants in the interviews and the focus groups. For each demographic item, participants were asked open-ended questions, thus using their own words to describe the identity that they wished to disclose. Information about the primary location where the participants grew up is consolidated by U.S. region or country.

Defining Sex

To be eligible for this study, participants acknowledged that they had engaged in a mutually wanted sexual experience with one or more individuals of the opposite sex. The participants were able to define *sexual experience* in whatever manner they wished. The first question asked of each participant was, “What is sex to you?” (Appendix G).

Table 2

Basic Demographic Information About the Study Participants

Demographic and category	*f*
Gender	
Female	19
Male	8
Race/Ethnicity	
White and/or Caucasian	15
Hispanic	6
Black or African American	3
White/Hispanic	1
Indian	1
Asian	1
Age (years)	
18	1
19	3
20	8
21	10
22	2
23	1
24	2
Year in College	
Freshman	1
Sophomore	9
Junior	3
Senior	12
Graduate student	2
Primary location where grew up	
Southwestern United States	19
Western United States	2
Southeastern United States	2
Mexico	1
Southwestern United States and Mexico	1
Northeastern and southwestern United States	1
Southwestern United States and India	1

The first few participants focused on the intimacy aspects of sex, resulting in the additional question, "Are there specific physical acts that you believe have to take place in order for it to be sex?" Definitions of sex varied. The general themes included intimacy and connectedness of partners, physical pleasure, specific physical acts, and acknowledgement that there are variable ways to define sex.

Intimacy and Connectedness of Partners

Intimacy arose in a variety of ways. Some aspects of this theme revolved around feelings of love and care for one's partner. This element arose during interviews with both female and male participants. Bre, a participant in a focus group, made it clear that sex went beyond a physical interaction, saying that "it's about our emotional connection as well," referring to sex with her boyfriend, with whom she was in love. This sense of connectedness was present for multiple participants in the study, as well as sex being an act that occurs between people who love one another. Furthermore, participants described sex as something that is shared by partners. Lucy, a female participant in an interview, provided a perspective that combined this connectedness, love, and care for one's partner:

> Intimacy, I think would have to do with a level of trust and understanding of a person. Their heart and their passions and desires. Then just the desire to want to help them grow as a person and make them feel loved and appreciated. I guess to affirm them.

While intimacy and connectedness were a theme, Tony (male, interview) admitted that this understanding came later for him. "I wasn't really comprehensive on

the fact of whether or not it should have been loving. . . . that came at a later date." Anastasia (female, interview) contended that intimacy was separate from sex, citing other ways to be intimate such as "laying on somebody."

Another aspect of the intimacy and connectedness between partners is the need for partners to pay attention to each other during sex. This vigilance of how the other partner is doing during the sexual act is an aspect of what participants agreed must occur during sex to maintain intimacy and care for one's partner. Pam, a participant in a focus group, stated, "I think paying constant attention, even if it's okay in the beginning, to make sure, as things keep going, that everything stays okay. It would be good to pay attention to your partner for that." Steve, a male participant in an interview, explained why it was important to pay attention to his partner: "I love my girlfriend. . . . I want to make sure that she gets something out of it, too." Whether referred to directly or indirectly, intimacy was clearly a defining factor for many of the participants.

Physical Pleasure

While not as frequently mentioned as other defining factors, pleasure was a consistently recurring theme. Pleasure, in some cases, was connected to intimacy; for others, pleasure was considered opposite of both intimacy and care for one's partner. For those who connected physical pleasure to intimacy, it was about pleasing one's partner or dual pleasure. "I love my girlfriend, and when I get to have sex with her, she makes me feel really good, and she pleasures me a lot, so I want to make sure that she gets something out of it, too" (Steve, male, interview). In contrast, those who separated pleasure from intimacy focused more on their own pleasure. Lucy (female, interview)

stated, “I could have sexual partners for my own benefit.” Another participant connected the physical pleasure aspect of sex to a one-night stand. In some cases, the reference to pleasure was more neutral, with no mention of who was gaining the pleasure: “Sex is pleasure” (Anastasia, female, interview).

Physical Interactions

Definitions of sex as specific physical acts fell mainly into two categories: penetration and sexual contact before penetration. Some stated that penile penetration of female genitals was necessary for sex to occur; others also identified oral or anal penetration by a penis as sex. While many participants limited their definitions to a cis male with a cis female interaction involving some form of penetration, some participants mentioned that individuals who engage with partners who do not fit this heterosexual framework may experience sex in other ways. Within this additional context, some stated that penetration was still required to make it sex. Keisha (female, interview) indicated that sex could be penetrative with something other than a penis. “Probably for the girl, depending on how they are, they probably would use a dildo or something or themselves.”

While many relied on penetration to define the physical aspects of sex, others agreed that sex occurs in other ways. Travis (male, interview) said, “I would say that whenever you take it a step farther beyond step one, which is making out. Anything that involves clothes, normal clothes being taken off and also touching [is sex]” (see Appendix A, Definition of Terms: making out). This was echoed by Brooke (female, interview), who stated, “I feel like probably anything besides kissing, anything farther

than that. I guess anything below the waist [is sex].” The suggestion at the end of this participant’s statement, that some form of genital contact must occur in order for the act to be sex, was also identified by a few participants.

The viewpoints represented above provided clear boundaries for what constitutes sex. However, a few participants recognized other definitions. Caroline (female, interview) explicitly stated, “There’s lots of different definitions.” Sandy (female interview) gave leeway for an individual to decide: “It can really be whatever you want to define it as.” Despite these variable definitions, participants generally agreed that “making out” is not sex and penetration is sex. Sexual behaviors beyond making out and before penetration were considered sex by some and not by others.

Nonverbal Indicators of Sexual Consent

The focus of this study was on nonverbal indicators of sexual consent. Despite this, many participants cited verbal indicators, the results of which are discussed below. In order to gauge whether participants believed that consent could be communicated nonverbally, an explicit question was added (Appendix D). Despite the reference to verbal communication, some participants stated that they could gain consent based solely on nonverbal indicators. During one of the female focus groups, Jean stated, “To me, there’s clear consent from both parties in this without, obviously, any speech.” Both the simple and complex scenarios utilized in the focus groups did not involve any verbal communication; all communication was nonverbal (Appendices M and N). Jean made this statement after the group had collectively agreed that the nonverbal communication in the scenario was sufficient to indicate that consent was present. Consistently, the

participants in the focus groups agreed that the simple scenario represented consensual sex without speaking. That was also the majority consensus regarding the complex scenario. Participants made broad statements about nonverbal communication as consent for sex. Nish, a participant in a female focus group said, “I feel like most of the time in scenarios like this, people don’t actually often talk about [sex].” During an interview, Brooke (female) shared, “Because some people don’t have to say anything for you to know that they want to have sex.” Similarly, Brooke mentioned reading her partner’s body language, “When I initiate touch, I don’t really ask for affirmation verbally, I just assume by his body language that that’s what he wants.” All of these statements reinforce the perspective that participants contended that consent can occur without speaking.

Despite acknowledgement that consensual sex can occur without speaking, some participants were reluctant to admit that nonverbal communication was sufficient. Jane, a participant in a female focus group, stated, “I can look at that and say that it’s technically consent,” referring to the complex scenario that contained only nonverbal communication. Jane said, “So I’m having a hard time. I feel like it is consent, but I also feel like I would not be comfortable with that situation. I guess it’s how I’m feeling.” A participant in another focus group discussing the complex scenario said that he believed that consent was present but that there were certainly problems. Overall, there was agreement that nonverbal communication can be utilized to indicate consent in a sexual interaction.

Identified Nonverbal Indicators

The following forms of nonverbal communication were discussed by participants throughout individual interviews and focus groups. Participants expressed multiple perspectives on whether certain behaviors indicated consent for sex. For some behaviors, participants expressed contextual aspects regarding when something might be considered consent and when it might not be. Some contextual aspects are included in the results of those items. Specific nonverbal behaviors discussed were flirting and use of social media, assertiveness and initiation, eye contact, kissing, use of tongue, facial expressions, drawing/leaning in and embracing, removal of clothing, touching the body, reciprocation, use of contraception, exposing genitals, genital stimulation, guiding into place, continuing action, nodding, sex noises and heavy breathing, silence, lack of resistance, and other indicators.

Each of the behaviors noted above is discussed in its own section below. The following sections begin with the theme of progression. While progression is not an independent nonverbal behavior, it was an aspect that participants raised as part of wanted sexual interactions. Progression, in this context, is a series of sexual behaviors ultimately leading to sex. Often, these behaviors escalate in level of intimacy. For instance, someone may start with kissing, move to fondling over clothes, and then move to direct genital touching prior to engaging in sex. Kissing may be seen as less invasive than fondling, which is less invasive that direct genital touch.

Progression. Many of the nonverbal indicators that were discussed were aspects of an overall progression that participants maintained takes place in a sexual interaction.

A few participants mentioned this progression through vague statements such as "I guess just one thing kind of leads to another" (Brooke, female, interview) or "they just kind of went through with it, so it was like, 'oh, yeah, seems consensual.' They're just going through it" (Bre, female, focus group). Jenny (female, interview) similarly generally discussed the progression of sex in her relationship. "It wasn't just like, 'Okay. Right, now we don't touch at all and then the next day we already did it.' No, it was gradually. A little bit. Steps." While general statements were made about the progression, others clarified what the progression entails.

Erick (male, interview) stated, "Generally how it progresses is you're kissing, and then you're making out, and then probably you lose your shirts at some point." Reese (participant in the male focus group) stated that the progression represented in the simple scenario demonstrated a consensual sexual situation: "They both kept progressing, and nobody's like, 'Oh, maybe never mind!' It really seems like a fairly regular progression." The progression that Reese described reflects a series of nonverbal behaviors that led to penetrative sex. While participants did not always explicitly define the progression, they made it clear that sex does not just occur out of nowhere.

Flirting and use of social media. Flirting and use of social media were mentioned by participants as part of sexual communication. Flirting was presented as a way of knowing whether one person is "into" the other. The connection to flirting in some cases was tentative, as described by Erick (male, interview). "Just general flirting lets you know if they're at least interested in you. Maybe not in sex specifically."

Flirting behavior was left largely undefined but there were references to specific forms of nonverbal flirting or social media communication.

For some participants, sexting was a significant aspect of sexual communication (see Appendix A, Definition of Terms, sext). "If I received a sext from someone, I think I would assume that they wanted to have sex . . . . that's what I would assume" (Travis, male, interview). A few female participants specifically indicated that, if they received a "dick pic" (see Appendix A, Definition of Terms), they would assume that the person wanted to have sex with them.

Another aspect of social media that was discussed was the use of Tinder, a dating application. Sandy (female, interview) pointed out that "the act of swiping right then can be automatically . . . like you know that both those people found something attractive about the other person and that gives the immediate interest" (see Appendix A, Definition of Terms, swiping right). Caroline (female, interview) said, "There's this expectation that you get on Tinder just to hook up with people."

The last recurring aspect of the discussion regarding social media and its use for sexual communication was that many participants had no interest in engaging in sexting or sex-related Snaps (see Appendix A, Definition of Terms). Some participants stated that sexting was silly. Others had concerns about what kind of control they were giving someone over their photos or messages. In contrast, some participants indicated that they would engage in some forms of sexting, but only under specific circumstances. Some indicated that they would do so only if they knew the other person well, as the risk was too great with regard to what the other person would do with the image. Others indicated

a willingness to engage in this behavior only with those whom they did not know well, as the likelihood of longer-term embarrassment was limited because they could walk away from the interaction with no concerns of losing someone whom they liked or to whom they were more attached.

Assertiveness and initiation. Assertiveness and initiation were mentioned by participants as indicating that sexual activity is headed toward sex. Assertiveness was mentioned directly and through statements of intensity or aggressiveness. Some participants specifically cited more intensified kissing. As an example, Brooke (female, interview) stated, "We kiss more aggressively" when talking about how she and her partner show that they are into sex. Anastasia (female, interview) mentioned the increased assertiveness by her partner to show that he is into sex.

An aspect of assertiveness, initiation, was mentioned by many participants. Initiation is related to who starts various aspects of a sexual interaction. Tony (male, interview) stated that his partner shows that she is into sex by taking over and initiating action. Tony indicated that, while the initiation has taken him by surprise, he has reacted "like, 'Oh, okay.'" Erick (male, interview) indicated that the lack of initiation by a prior female partner was an indication to him that she was not interested in sex.

> We were on her bed, we started making out, but she never really initiated anything beyond that. . . . I know that, because she wasn't really doing anything other than just kissing me, that that's probably all she was comfortable with.

A few female participants also talked about initiating; two indicated that they would initiate to show their interest, while two indicated that their partners were the ones to initiate and thus show their interest.

Initiation appeared in the focus groups, as well. Specifically, several participants indicated that they could tell that the sexual interactions of the individuals in the scenarios were consensual because the people involved in the sexual acts were initiating at different times throughout the scenario. Jean, a participant in a female focus group, commented that Shawn, a character in the complex scenario (Appendix N), could have made a more informed decision about whether Shawn's partner, PJ, was consenting by paying more attention to PJ's initiating behavior. There is a portion of the scenario in which PJ stops engaging. Jean indicated that Shawn could have waited to see whether PJ initiated after PJ stopped engaging. "I think also, at different points, had I been Shawn and unsure, I would've waited then to see if PJ was going to initiate anything. Just to make sure that it was reciprocated." This was said in the context that the group agreed that Shawn was the primary initiator of the sexual activity.

Eye contact. Eye contact was mentioned fairly frequently in interviews and in most of the focus groups. Many participants directly indicated that eye contact was a sign that someone was into sex. Clever Knight (male, interview) stated, "I feel eyes usually tell a lot of it," referring to how he and his partner know that the other is into sex. While some participants considered eye contact to be a positive indicator, others raised contextual concerns. Annie (female, interview) stated that she did not "think just plain eye contact implies sex." She clarified that relationship context could affect the situation:

"I guess if let's say you were in a long term relationship and you had already been having sex, then [through] eye contact . . . [one's long-time partner] would obviously know [that the partner was consenting to sex]. It's a regular thing." For the interview participants, eye contact could be considered an indicator of being into sex.

In focus groups, eye contact was mentioned as part of an explanation of why the participants maintained that the scenarios depicted consensual sex. One participant suggested that eye contact may be a way that someone initiates sexual contact. Jean (female, focus group) said, "I think also the eye contact at the beginning kind of initiated the intent." Jane (female, focus group) interpreted eye contact as a way to know that the people involved in the sexual interaction were aware of what was occurring: "[The scenario] kept mentioning eye contact, so it just shows . . . they're both aware of what's going on." Kelly (female, focus group) indicated the importance of ongoing eye contact: "There was a lot of eye contact, which I thought was really important. Even as they were doing different sexual acts, there was eye contact." Not only did participants indicate eye contact as an indicator of consent, Jean described eye contact as "sexy": "I think there's also a certain level of, I guess sexiness, in eye contact." If eye contact is an indicator of being into sex, then, as suggested by some participants, the absence of eye contact may be an indicator that one is not into sex.

Other participants commented on negative issues that may be present when eye contact is absent. Curly Sue (female, focus group) stated, "If you can't even look at the person, then you probably shouldn't continue with what you're doing." Bre (female, focus group) expressed potential feelings that a lack of eye contact may represent:

"When you're nervous, you definitely, it's harder to make eye contact with the person." While the study was focused on consent, these statements were indicators of potential non-consent. More results related to non-consent are presented in the section discussing results beyond the research questions.

Kissing. While kissing was mentioned frequently in interviews and was asked about specifically during these interviews, no one in the focus groups identified kissing as a potential indicator of consent, despite kissing being present in the scenarios. This lack of identification of kissing as consent connects with statements by some participants in interviews. Four participants stated that kissing was not a good indicator of consent for sex. Travis (male, interview) stated, "I feel like I wouldn't quite know if they were ready to have sex yet or not. It's [kissing] not clear enough." This was supported by Jenny (female, interview), who indicated that kisses could be something other than sexual, mentioning "pecks" as being platonic. Lucy (female, interview) stated her belief that kissing "has very little to do with the actual act of sex." Other participants responded "no" when asked whether kissing was an indicator that someone was interested in sex. While this was a quick and definitive response by several participants, Jenny, who mentioned "pecks" above, openly processed other thoughts about kissing and consent, ultimately stating, "[Kissing] shouldn't [be an indicator that someone is into sex], because that gives permission to anyone raping." Jenny was not the only one who saw multiple sides of the question of whether kissing was an indicator that someone was into sex.

Eight participants stated that they were unsure about whether kissing indicated consent or indicated that context mattered in determining whether kissing indicated consent. Tony (male, interview) shared that kissing could suggest a possible future of sex, but ended with, "Who knows?" Those who cited context made statements such as "depending on how they kiss" (Keisha, female, interview) or it "really depends on who you're kissing" (Lucy, female, interview). Erick (male, interview) said that where he was being kissed mattered: "If they kiss me anywhere that's not on my lips," he considered it an indicator of being into sex. A few people said that the increased use of tongue was an indicator that the partner was into sex: "I've noticed that guys use tongue more whenever they're more horny, I guess" (Ivette, female, interview). Others redirected the question about whether kissing was an indication that someone was into sex by stating that kissing may be an indication that a "person is interested in you" (Tony, male, interview) or that someone is "into personal contact" (Clever Knight, male, interview).

While there was ambiguity for some participants, others maintained that kissing was a clear indicator of being into sex. Seven participants responded "yes" when asked whether kissing was a way to show that someone is into sex. Others mentioned kissing when discussing how they or their partners showed they were into sexual activity. Six participants cited kissing as the start of sexual interactions. Tony (male, interview) said, "[Sex] starts with kissing and making out and all that stuff first." Margaret (female, interview) made a similar statement: "I feel like it always starts with kissing." Jenny (female, interview) elaborated on her thoughts of how kissing connects with sex: "Well,

if you already let him have physical contact with you, yeah. It was fine with you. We're grown. . . . It's not like we don't know what we're doing." Jenny's multiple perspectives on kissing reflected that people may have varied perspectives regarding kissing, in addition to the existence of various perspectives on this issue among participants.

Expression. Facial expressions, specifically, were discussed in the focus groups and by one participant in an interview, Travis (male), who described the impact of emotional expressions. Travis shared that his partners show they are into sex by doing "exactly the opposite of what I'm doing, but shown in them that they're also excited, happy and clearly happy with what's going on or indicating they want to take it a step further." Through this, Travis was indicating that he paid attention to the expressions of his partners during sex and was looking for indicators, through facial expressions, that they were enjoying themselves and happy with the sexual acts. Focus group participants stated that it was challenging to know for certain whether the scenarios were consensual without being able to see the faces of those involved. For the complex scenario, there was discussion in one of the female focus groups regarding whether inaction by one individual and the following actions were consensual. During this discussion, Curly Sue stated, "I don't know, it could be taken both ways. I would just have to see her face to know." It is clear that facial expression is a contextual piece that assists participants in understanding whether their partner is into sex.

Drawing/leaning in and embracing. The concept of physical closeness through drawing and leaning in or embracing arose repeatedly. In one of the female focus groups, Pam concluded that the sexual interaction in the scenario was consensual

because the individuals were "pushing back into each other. . . . I feel like that [pushing back into each other] shows that there was consent on both parts." Moving into each other was also mentioned. Clever Knight (male, interview) explained how he knows whether the sexual contact is wanted in the presence of silence. "There'd be a lot of body language, kind of like moving into one another." Three women in interviews specifically spoke about drawing closer: "just trying to pull in closer" (Margaret), "the boyfriends would like want to hold me closer" (Ivette), and "he draws me closer towards him" (Lucy). This was echoed by two male interview participants who used the terms "getting close" (Travis) and "leaning into it" (Clever Knight). Other participants also cited leaning into the other person's touch as a way to show approval of what is happening.

Removal of clothing. Removal of clothing appeared to be a good indicator for most participants that they or their partners were into sex. Some specifically mentioned removal of one's own clothes, others spoke of removing their partner's clothes, and some talked about the removal of clothing more generally. One participant stated quite clearly that, "if both parties are actively taking off clothes . . . then it's all good." This strong statement that active removal of clothing is an indicator that individuals are into sex was emphasized by most participants. Some participants cited removal of clothing as part of the progression toward sex. Margaret (female, interview) stated, "Then from there, that's where you start taking clothes off." Erick (male, individual interview) considered the removal of pants to be a tipping point for when he knew sex was going to happen: "Until that point it's all just who knows really how far it's going to go." Erick added, "Yeah, basically removing any sort of articles of clothing generally just hits that,

'hey, I want to take this to a different level.'" A few participants did not express this kind of clarity that removal of clothing indicates consent. Steve (male, interview) stated, "I don't think that [removal of clothing] necessarily means that you want to have sex." Annie (female, interview) indicated, "If the other person's doing it with consent of the other person, then yeah, because they're letting you take it off. If they're actually forcing you, then no." These generalized statements provide some understanding of how the participants saw removal of clothing as a part of the consent process. Others were more specific about who was removing clothing and what that communicates.

Removal of one's own clothes. Some participants spoke specifically about removing one's own clothing as an indicator that someone is into sex. A few participants stated that removal of one's own clothing was a clear indication that someone was into sex. Jenny (female, interview) stated, "I think that's a straight up yes, I would think," while Ivette (female, interview) said, "Yes, I mean if you remove your own clothes, obviously you want to [have sex]." Pam, a participant in a female focus group, shared said that the scenario was consensual: "I think that, since they are both removing their own clothes. . . . I feel like that shows that there was consent on both parts." Nish (female, focus group) shared that providing the opportunity for partners to remove their own clothing gave control to those partners. "It did say that he unbuttoned her shirt a little bit, and then she kind of stood back and took it off herself. So I think he's kind of leaving her to make her own decisions at that point."

Other participants were conflicted about whether removal of one's own clothing signified that one was into sex. Steve (male, interview) stated, "If she removes her own

clothing, without me doing it for her, or getting involved in that, I guess I could garner that she's interested in that [sex]." However, he continued, "It doesn't necessarily mean that she wants to engage in sexual activity. Maybe she just wants to cuddle, cuddle naked, or just lie around." Brooke (female, interview) shared that the context in which the clothes are removed matters. She said that someone's need to change clothes would not be an indicator that that person was into sex, but could be so if the person were engaging in a "striptease-type thing."

Another aspect of removing one's clothing that was cited by Robert (male, focus group) when discussing the complex scenario was that, when there is not mutual removal of clothing, it could demonstrate that one person has taken control of the situation and does not necessarily mean the other party is into it. Robert stated,

> I think it was the point where, I think it says something along the lines of, "Shawn takes off Shawn's underwear." At that point, it seemed less mutual and less back and forth escalation to one person escalating it, the other one just kind of matching, not to make the situation seem awkward, but to pretty much not say no.

Another aspect of this remark is that the participant perceived Shawn's removal of Shawn's underwear as an escalation with the intention of heading toward sex.

Removal of another's clothes. Many participants responded with the caveat that removal of another person's clothes would need to be done without objection from the person being disrobed. Removal of someone else's clothes was more an indication that the person doing the disrobing was interested in having sex. Lucy (female, interview)

summed this up by saying, “I know it’s really basic to say, but I’m just assuming if you’re taking off my panties, you’re going to want a little bit more than just to look at it.” These responses gave little context for what the feelings of the person being disrobed might be.

Touching the body. Various forms of touching were mentioned by participants. (Touching of genitals is not included in this section but is discussed separately below). Some participants spoke of general body touches. Specifically, two male participants talked about placing their hands on their partners’ bodies to indicate that they are into sex. A couple of women cited intimate touching as a way their partner demonstrates that the partner is into sex. Lucy (female, interview) specified that her partner wanted to touch her face to signify that he is interested in sex. Brooke (female, interview) described her partner stroking her with his thumb while they are holding hands as an indication that he is into sex. Two women specifically described their partners placing their hands on the women’s waist as an indication of interest, while another spoke about having a partner place a hand on her thigh.

Reciprocation. Reciprocation was a recurring theme. Clever Knight (male, interview) stated that he knew that his partner was into it because it was “just [a] reciprocating thing.” Erick (male, interview) provided a specific example about a former female partner: “She was kissing me back so I knew that [kissing] was okay.” Sandy (female, interview), talked about reciprocation and consent directly: “I think that if you are consenting to something, then the act of reciprocating whatever is initiated by the

other person is seen as consent." When discussing the topic of lack of resistance, another participant brought up being able to feel someone responding to one's actions:

> No, it's not okay to just keep trying to kiss someone if they don't want to. But I guess the difference would be if probably the other person would lean in also and wouldn't just stand there, and would kiss them back. You can feel when their mouth moves. (Brooke, female, interview)

This idea of reciprocation was not limited to interviewees. During the focus groups, participants identified reciprocation by the people in the scenarios as an indicator that the sex was consensual. Jean (female, focus group) said, "There was a lot of reciprocation of the different things" as the group was discussing what made the scenario consensual. Robert (male, focus group) talked about the simple scenario and pointed out that the people in the scenario went beyond simple reciprocation but instead escalated the sexual activity evenly.

> At the same time, I think it's interesting that they both, it's not one person pushing for it, and making the next move, and they're like matching it, it's back and forth between the two of them, that one does one thing, and another escalates, and then the other escalates together.

Whether participants described this behavior as reciprocal or escalatory, they agreed that this type of behavior was an indication of consent or that someone was into sex.

Use of contraception. Use of contraception was mentioned primarily in the focus groups. Specifically, when participants were asked what was missing from the scenarios, they indicated that the use of contraception should have been included. A

couple of members of the focus groups specifically mentioned that contraception was a part of the consent conversation that has happened for them in the past. Kelly (female, focus group) noted, “The only thing is, it doesn’t seem like they used protection. That’s usually when, at least in the situations I’ve been in, that’s when consent could be nonverbally communicated.” Lucy (female, interview) also mentioned contraception as a way to let her partner know that she was interested in sex. Specifically, Lucy said that she would “bring out a condom” or somehow let him know that she was on birth control.

Exposing genitals. Exposing one’s genitals was mentioned by a few participants. There was more reference to exposure of a man’s genitals and achieving an erection than of exposure of a woman’s genitals and “getting wet.” Lucy (female, interview) very plainly indicated that she knew her partner was into it if he “walks in and gets his pee pee out.” Anastasia (female, interview) mentioned knowing her partner was into it when his “penis gets hard.”

Genital stimulation. Genital stimulation was mentioned by many participants. Some mentioned genital touching and stimulation in a roundabout way, using phrases such as “down there” or someone putting one’s hands “lower.” Travis (male, interview) indicated that his partner would show that they were into sex by touching his privates: “They start touching me in what I guess normally would be considered inappropriate areas.” Brooke (female, interview) started vaguely and then became more direct when describing how her partners would show they were into sex: “The handsy hands, like fingering, and I guess hand jobs and stuff like that.” Others were direct from the outset, such as one participant who indicated that he would touch his partner’s genitals to

indicate that he was interested in sex. Lucy (female, interview) made a distinction between clitoral stimulation and fingering as communication of interest in sex.

> To me when a man is touching my clitoris, it's more of just a sensual touch and not so much of a . . . . He could easily just touch my clitoris and then leave, but I feel like if he's actually penetrating me with his fingers, then it's like, "Okay, you should tell me what you want."

All references to genital touching arose from the questions of how the participant or partner showed that they were into sex.

Guiding into position/positioning. Several female participants cited guiding into position or positioning as mechanisms for showing that one is into sex. One participant said that she opened her legs to indicate that she was into sex. Others cited guiding the partner's hands to certain locations on their own bodies. In most focus groups, during discussion of the complex scenario, someone noted PJ guiding Shawn back into position as an indicator that she was okay with what was occurring. Jane (female, focus group) stated, "It says PJ does guide Shawn back into position to penetrate, so I guess that they are saying continue." Another aspect of guiding someone into a position that was raised repeatedly was a man guiding the partner's head towards his penis. When this conversations was raised, distinctions were made about how this was done and how that related to consent. One participant shared her perspective on the matter:

> It would depend too, it is guiding the person in a way that's not . . . . There's a difference between pushing their head down and forcing them to do something. I

> could say a push that's not a push or a force, but just, let's take things this direction, maybe. (Jane, female, focus group)

Participants agreed that this reference to the non-push or non-forcible guiding might be okay in that sexual communication. Similar to removing someone else's clothing, the person doing the guiding, not necessarily the person being guided, is communicating interest in sex.

Continuing action. Continuing action was mentioned by a few participants. When asked about what showed that someone was into sex, the participants made comments such as "not stopping" (Caroline, female, interview), "continuing what's going on" (Sandy, female, interview), and "I would just keep doing that" (Annie, female, interview). Another participant was slightly more vague: "We just let it happen" (Tony, male, interview).

Nodding. Nodding was discussed primarily in the focus groups but came up for one participant in an interview who indicated that a nod would clearly provide an indication that there was interest in sex. The discussion in the focus groups regarding nodding centered on a portion of the complex scenario in which PJ was engaging in no action and Shawn made eye contact with PJ. In the scenario, PJ nodded. The participants in the focus group agreed that this was an indicator that PJ was okay with continued sexual activity. A few participants specifically indicated that they were unsure whether the sexual activity was consensual until PJ nodded. Jean (female) stated, "I was a little unsure, I guess [whether the interaction was consensual], until I got to the point where Shawn stopped and raised both his eye-brows and then got the nod. But I was really

unsure until then." Nodding appeared to be clear affirmative communication for those who discussed it.

Sex noises and heavy breathing. Some participants mentioned noises or heavy breathing as indicators that someone is into sex. Some references to these noises were nonspecific, such as Steve (male, interview), who said, "I'm sure she can tell through sounds I make," or Clever Knight (male, interview), who stated, "Usually both parties will be making certain sounds about it" Another participant specifically mentioned moaning. Two other participants cited heavier or faster breathing. Caesar (male, interview) specifically put heavy breathing in the context of when a kiss could be considered to be an indication of being into sex, stating that when a kiss was an indication of interest, the person would have a "heart racing" and would be "breathing faster."

Silence. There were various responses regarding whether silence constituted consent. Silence was not brought up by any participant as an indicator of consent; it was discussed only when a participant was specifically asked whether silence was an indicator that someone was into sex. A few participants gave responses indicating that silence could be an indicator that someone was into it. Clever Knight (male, interview) stated that it could be considered consent, as sometimes "your mouth is otherwise occupied." Annie (female, interview) suggested that silence was an indicator that someone was into it, using the example that "silence could be a moment where both of y'all are silent, making eye contact and having an intimate connection." Jenny (female,

interview) indicated that silence does not indicate that someone is into sex but she noted that a "saying back home" meant that "silence means that you're okay."

Similarly to Jenny, many participants had mixed opinions about whether silence meant that someone was into sex. A substantial number of participants gave context to when silence would mean that someone was into sex. One way that context was given was by participants who cited other actions that should be present in order for silence to be consent. These behaviors included smiling, facial expression, body movements and language, self-touching, level of engagement or enthusiasm, and level of intensity of the silent person's kisses. Others struggled with giving a definitive answer. When asked about silence, Erick (male, interview) stated, "That one's harder because silence doesn't . . . hmmmm." Clever Knight (male, interview) commented when responding to whether silence showed that someone was into it, "Not necessarily, but I also don't think it's necessarily showing that you're not." Clever Knight gave additional context by indicating that "some people are quiet, some people aren't." Caroline (female, interview) identified individual differences, citing that people needed to know each other to make it okay. "In certain situations, [with] people you're comfortable with, and you know that they're just a silent person I guess, then that's okay." While these participants agreed that silence could possibly mean yes or no, others provided specific context for when silence is not okay.

Indications that participants shared about when silence was not okay included seeing fear or nervousness, looking away, or lack of reciprocation. Some participants simply stated that silence was not a way to indicate that someone is into sex. Jane

(female, focus group) stated this plainly during a discussion on silence. "Coming from the person who's being silent, it's not consent." Travis (male, interview) stated that "silence would go the opposite way" of a yes to sex.

Lack of resistance. Similarly to silence, there were variable responses to the question of whether lack of resistance constitutes an indicator that someone is into sex. There was extensive discussion in focus groups and interviews on this topic. Unlike silence, however, lack of resistance was mentioned a couple times before it was explicitly asked about. Some participants in both the focus groups and interviews suggested that lack of resistance could be a way to know that someone was into sex. One participant stated that he knew that his partner was into what was happening when she let him do it. A few participants described "star fishing," or one person just lying there while sex is occurring. Clever Knight (male, interview) indicated that this was okay in that "some people are lazy." He provided an example: "If it's a girlfriend you've been with and she's like, 'I'm really tired, but I really like you, go ahead, but I'm probably going to lay here.' It's consent, it just doesn't sound like fun." Outside of "allowing" something to happen and lazy people who star fish, participants expressed that lack of resistance was not all that clear as a way to indicate that someone is into sex.

Some participants gave responses that considered broader perspective and context to a lack of resistance. Steve (male, interview) stated that lack of resistance could be a way to know the other person was into it but that this had not been his experience: "In the context of my relationship, I guess [lack of resistance] means she wants to have sex, but I've never been in a position where I just go based on that." Kris

(female, focus group) did not explicitly say that lack of resistance was a way to show that someone was into sex but stated that lack of resistance should not be used as an argument that consent was not present after the fact.

> When I think about the argument of consensual or not, I think of what would happen after. I think, like, say a guy was trying to make a move on a girl and she just, she didn't say no but she wasn't super into it. I don't think it would be fair later for her to say, "Yeah, he was doing all this stuff that I didn't want to do" and like, put blame on him for doing something wrong because she didn't do anything to stop it.

Participants in the male focus group summed up these considerations by saying that lack of resistance is a gray area. Robert emphasized this: "I think it's important to say that we sat through what, three, or four, or five, talks about what consent is, looks like, what you should do;" Reese finished the thought: "And this is still gray to us."

These are not the only participants who felt that lack of resistance may be a gray area. Bre (female, focus group) talked about how lack of resistance is not an indicator one way or the other: "It's not really indicative of giving consent or not giving consent. But it definitely needs to spark a conversation where there is an understanding like, 'Okay, so, are you okay?'" Jean, in a different female focus group, commented on how lack of resistance may be consent or, in other contexts, not consent

> I think that no resistance, without . . . I guess if there is not resistance, looking at the expression, and it's the person not moving and making no sound, that is different than no resistance because, "I'm in it to win it." So I think it's not just

whether or not there is resistance; it's the mood, and the feeling, and the body language, and facial expressions associated with that.

These contextual pieces related to lack of resistance were also raised by participants in interviews. When discussing lack of resistance, Travis (male, interview), indicated, "It's hard to know without seeing other expression and all that stuff." This ambiguity about resistance as an indicator that someone is into sex was summed up by Caroline (female, interview), who was actively struggling to find an answer: "I guess, just not pushing them away, Well, but then . . . dang it." For these participants, lack of resistance might mean multiple things; for others, it might mean that something was wrong.

Bre (female, focus group) indicated that lack of resistance could go either way but earlier in the focus group she articulated that lack of resistance might signal that something is awry. "If Riley was to push up against Taylor and Taylor would just sit there and let it continue to happen. Then, you're not hesitating but you're not engaging back and that is a big sign that maybe you're uncomfortable." Pam (female, different focus group), commented, "It's definitely when the moving stops on one part, especially when they have been actively involved and then weren't anymore. I think that's when it shows that consent may be not there anymore."

While some participants indicated that lack of resistance might be a red flag, many agreed that lack of resistance was definitely not an indicator that someone is into sex. Jean (female, focus group), during a discussion of the complex scenario, stated, "So, I think the lack of reaction really is what the trigger is for where I think the consensual

aspect of it stops." As Clever Knight (male, interview) was processing the concept of lack of resistance, he stated, "I guess that would also get filed under actions to show they're not into it." This was echoed by Tony (male, interview) who stated, "I'm going to have to go with no [it doesn't show they're into it] . . . it kind of feels like you're setting yourself up for a bad outcome." Steve (male, interview) gave an example of what occurs in his sexual interactions: "We're both engaged into it, it's not like passive one person is just kind of being passive, and the other person's doing their thing. It's a two-person activity, at least for us it is." Caroline (female, interview) had a strong reaction to the topic of lack of resistance: "What? Just because someone jumps on you and kisses you and you don't immediately pull away means it's okay? People think that? Oh my God!"

How participants would respond. As part of the discussions regarding lack of resistance, some participants provided perspectives on how they believed that they would respond if the person with whom they were engaging stopped reciprocating and/or initiating contact or, in other words, simply did not take action to stop sexual contact. Many participants described this lack of resistance as "freezing." Most said that they would notice if their partner "froze" or stopped engaging actively in the sexual activity. A few people alternatively indicated that there may be times when they might not notice that their partner "froze" or stopped engaging and that it would depend on the context of what was occurring. Some of those who said that they would notice identified their possible reactions in those moments. Kris (female, focus group) commented, "It's

hard not to notice it, and I feel if it was me, I will be like 'okay, what's up?'" Kris later stated,

> 'Cause I'm sitting here thinking, "Yeah, if I'm making out with somebody and they all of a sudden seem like they're not as into it, or if we're about to have sex, and they're all of a sudden not into it, I'm going to be like 'oh my gosh, what is it?'"

Questioning what might be the cause of the "freeze" was common by participants.

Clever Knight (male, interview) made a statement about questioning what is going on but his question was not inquiring whether something was going wrong but whether sex was going to happen. "Normally if someone was not responding, I would probably be like, Okay, are we not doing this?" Lucy (female, interview) described frustration that she might feel: "I would be like, 'Well, why don't you want me or why are we not proceeding? I'm not going to do all the work. You need to meet me at some point." Lucy had indicated earlier that, when she is engaging with a younger partner, she assumes that the partner wants to have sex with her. She later gave more context for how she might respond, depending on the person with whom she was engaging:

> Depending on the relationship. If it's an acquaintance, that he's not reacting to it, I will become frustrated, like, "Okay, well, screw you. I'm not going to waste my time and I'm not going to do all the work." . . . If it's a partner, someone I'm in an intimate relationship with, if he's not responding, then I want to know why. I might be initially frustrated and like "Okay, what's up? What's wrong?"

While most of the reactions that participants expressed pertained to how they would respond if their partner stopped engaging, Annie (female, interview) described her reaction if she stopped engaging and her partner persisted: "If the guy persisted, I would just get up, leave, [and] probably tell him off a little bit."

An additional element discussed solely in focus groups when discussing the complex scenario was whether Shawn's response to PJ's inaction was sufficient. Some participants stated that his nonverbal check-in of stopping, making eye contact, and raising an eyebrow was sufficient. Bre (female, focus group) stated,

> I think things were progressing pretty steadily up until that point, and once he realized that there was a little bit of hesitation or a little pause, what he did – he gave her the opportunity if she wanted to say no, she definitely could have. I think that what he did was sufficient in that situation.

In some cases, participants decided that the nonverbal exchange in the complex scenario was sufficient because it was paired with PJ's action following this check-in of nodding and guiding Shawn back into place. Others said that Shawn should have done more. Specifically, some suggested that Shawn should have verbally asked whether everything was okay. Jean (female, focus group) indicated, "Even after he wasn't sure, even after the first nod, saying, 'are you sure?' would have been more appropriate." Another participant suggested that Shawn should have moved off of PJ just to make sure that PJ did not feel pressured into continuing.

Other indicators of nonverbal consent. Anastasia (female, interview) mentioned a behavior that was not raised by any other participant in the study. She

indicated that she bites her partner to indicate that she is interested in sex. “Some people would probably think it means stop, but for me it means go.” This behavior is potentially outside of cultural scenarios for this participant group and more likely to be associated with interpersonal or even intrapsychic scripts that tend to be more affiliated with fringe sexual behaviors.

Impact of location on assumptions of sexual contact. The location where sex occurs came up as part of the naturalistic process of the study and was also specifically asked about related to whether an invitation into the bedroom was an indicator of being into having sex. Concepts that came up naturalistically included the desire to get to a private space for sex to occur, which could be an apartment, residence hall room, or hotel. Tony (male, interview) summed up by stating, “Getting invited alone with someone into say an apartment, dorm room, whatever it could possibly be, is definitely an indicator” that someone is into having sex. Other participants shared the position that moving into a bedroom was specifically an indicator that someone was into sex. One participant discussed his personal experience:

> For two of them before we ever had sex, before we even really started making out, because we came to the location that something was going to happen, I invited her over and she invited me over and that was implicit in the invitation. (Erick, male, interview)

Caroline (female, interview) shared that going to a private space when at a house party was an indicator. “I definitely think that there are good indicators that people are into it. Inviting them to your bedroom during a house party is like, okay they might want

sex." This statement provided a contextual element for when an invitation to a private space might indicate interest in sex.

Similar to the statement above, some participants provided further context for when an invitation to a private space was strongly connected to interest in sex. Specifically, participants discussed situations where there was some kind of sexual activity occurring before moving to the private space. One participant discussed how early stages of sexual contact may occur in a car, bathroom, or other more public space, and that a transition to a more private space in those cases meant that the parties were interested in having sex. This added context of sexual activity prior to a move to a private space was reinforced by Jean (female, focus group) who, when discussing the simple scenario, stated, "I think that the transition especially from the couch to the bedroom makes a difference as opposed to if it had been they'd been watching the movie in Riley's room and then things had shifted." In the simple scenario, sexual contact occurs in the living room area of a residence and the individuals move into the bedroom, where penetration occurs.

While some participants maintained that an invitation to the bedroom was implying interest in sex, others said that this kind of an invitation encompasses too many situations to be a true indicator. Caroline (female, interview) described a different context than the one above and arrived at a different conclusion:

> I guess it kind of depends on what was happening before, but I've had friends over, and we'll just . . . like it's, "My other roommates are home," or whatever. Like, "We can just go watch TV in my room or something."

Brooke (female, interview) provided societal context to explain her perspective:

> I think that in society today and especially in college, everyone has a ton of roommates. Well, at my age not necessarily everyone. But you all have roommates and so a lot of the time if you're going to hang out with someone, you go their room just 'cause they have roommates and it's either messy or it's not their space, so I think that yes there's lots of . . . if you go into someone's room, then that could be saying oh, like, there's a bed in there, that makes it happen, but that's also the only place to hang out in a private space for a lot of people, so I think it has a negative connotation too if they weren't seeing it on the same level.

Clever Knight (male, interview) related the bedroom invitation directly to consent. "I don't think if it's, if we're asking if that's a measure of consent, then I don't think asking to go to a bedroom, or agreeing to go to one is a measure of actual consent." Similar to other behaviors mentioned above, the context makes a difference in determining whether moving to a bedroom or other private space is an indication of interest in sex.

Participant-Created Scenarios

A variety of themes emerged from the participant-created scenarios. Particular attention was paid to the nonverbal communication included in the scenarios as that matched the purpose of the study and was directly applicable to the information needed to create the compiled scenarios for the focus groups. A frequency count of the nonverbal communication found in the participant-provided scenarios is presented in Table 3. The counts are separated by the number of times the indicator was present in the

Table 3

Frequency of Nonverbal Communication Provided in Participant-Created Scenarios

Nonverbal communication	Simple	Complex	Mean
Kissing mouth	12	12	12.0
Leading into/presence in bedroom/private space	9	6	7.5
Removing partner's clothes	7	7	7.0
Reciprocation	8	5	6.5
Eye contact	7	3	5.0
Sexual touch	6	4	5.0
Removing own clothes	6	3	4.5
Genital touch	5	3	4.0
Passionate or other look	4	3	3.5
Pulling in/embracing	2	5	3.5
Positioning	5	1	3.0
Kissing body	3	3	3.0
Cuddling	2	4	3.0
Allowing/lack of resistance	2	3	2.5
Oral contact with genitals	2	2	2.0
Smiling	2	1	1.5
Moan	1	2	1.5
Nod	1	2	1.5
Close dancing	2	0	1.0
Touching breasts	2	0	1.0
Offering condom/using condom	2	0	1.0
Guiding to breasts	1	1	1.0
Guiding to genitals	1	1	1.0
Erection/getting wet	0	2	1.0
Foreplay	1	0	0.5
Guiding to lips	1	0	0.5
Licking body	1	0	0.5
Lip biting	1	0	0.5
Self-Touch (breasts/genitals)	1	0	0.5
Butt touch	1	0	0.5
Relaxing	0	1	0.5
Hand touching	0	1	0.5
Biting	0	1	0.5
Spreading legs	0	1	0.5

simple and complex scenarios. A mean of the number of times nonverbal indicators appeared in scenarios is also included. Multiple references to the same nonverbal indicator were marked only once per participant-provided scenario.

Other themes that emerged in the participant-provided scenarios included relationship context, prior interactions between the individuals, internal consent, and feelings. The context for the relationship between the persons engaging in sex ranged from knowing "each other for their whole life" to meeting through friends to meeting at a bar to matching on Tinder and immediately engaging in sex when they met in person. Internal consent was reflected through participants making statements that included, but were not limited to, "both parties are into it" or "they are both comfortable with it." When including feelings in the participant-written scenarios, participants described a variety of feelings such as happiness, nervousness, fear, pleasure, surprise, passion, and excitement.

For the complex scenario, the added component of complexity often had to do with mixed feelings or some form of indicator of non-consent that had to be resolved. Some of the scenarios included confusing or mixed messages. An example of this was a scenario in which one person would in one instance reciprocate actions and at other moments turn away. In other scenarios, the participant wrote about one of the parties freezing and the partner making sure that it was okay to proceed. One scenario depicted resistance from the female partner due to menstruation, which spoke to external factors that might impact a sexual interaction.

Utility of Constructed Scenarios

A question that was unique to the focus groups pertained to whether the participants agreed that the compiled scenarios were useful in understanding consent. Generally, the participants agreed that the scenarios were useful in understanding consent. Nish (female) commented that the simple scenario was realistic: "I feel like this is how it can go." Kris (female), in discussing the simple scenario, specified that it is useful in understanding a situation where there is no talking: "I think that this particular example is good for situational consent without having the conversation." Some of the conversation when discussing the simple scenario pertained to how it would be helpful to have a situation where consent was not clear and how that situation was resolved. When discussing the complex scenario, some participants indicated that it was helpful in understanding consent.

Other participants commented that the scenarios were not useful in understanding consent because there should be verbal communication. In one female focus group, upon being asked whether the simple scenario was useful in understanding consent, Jean stated, "I think probably yes, but my first line of teaching would be something that's verbal." This was similar to a statement by Nish in another female focus group, who said, "I don't know if it is because I feel like for someone to understand what consent looks like, they need to look at a scenario that talks about where someone discusses consent."

Aside from suggestions that talking be involved in examples, Reese (male, focus group) talked about the complex scenario demonstrating a gray area and noted that, standing alone, this scenario would be confusing.

> If I was given this, had no clue what I was looking at, just given this, this gray area, I think it would confuse me more. It's less black and white, but it does demonstrate that gray area, to know how to navigate the gray area.

Jean (female, focus group) suggested that a comparison of a situation without consent with one in which there was consent could be helpful. "It'd be cool if you like did this and like those, 'what are five differences?' and like contrasted them." In this context, the participant was suggesting how to show more detail in the nonverbal behaviors exchanged between the sexual partners, both positive and negative.

Messages Received About Sex

Another focal point of this study, in addition to what participants agreed were indicators of nonverbal consent, was the kind of messages that participants had received about sex as they were raised. This aspect of the data is connected to cultural sexual scenarios. Three aspects of cultural scenarios were discussed during interviews: who provided messages to the participants, what messages were provided, and, as a part of these discussions, a naturally occurring theme of when participants had received these messages.

From Whom the Messages Came

Participants identified a variety of sources of messages relating to sex. These sources were categorized as (a) family, (b) school, (c) religion, (d) friends, (e) intimate

partners, (f) the Internet, (g) electronic or print media, and (h) pornography. Most of the discussion about family messages revealed parents as the source, although some participants reported having received messages from siblings, cousins, or grandparents who were acting as parents of the participant. When talking about receiving messages from parents, most participants referred to only one parent who had had a talk with them about sex. Annie (female, interview) named her mother as the primary reliable source for messages related to sex. "I guess I never really focused on [negative media portrayals] because my mom and I's relationship was good enough that she told me what was understandable and what was to be accepted." Caroline (female, interview) shared that she had had an open relationship with her mother that had allowed her to be informed. "She helped me stay educated, and luckily we had, still do have, a super open relationship." Some participants reported that they had not had this level of open communication about sex.

Some participants were very clear that their parents had not educated them about sex. A couple of participants indicated that their parents were relieved when other people had had the sex talk with their son or daughter. Others indicated barriers to receiving sex education from the parent. Anastasia (female, interview) shared this very issue.

> Maybe because I probably, you know, said, "I don't want to hear it," and yeah, so that's how . . . that's probably why I didn't hear it, know about it, til 17. Because they was [sic] trying to give me the talk, and I went "la la la."

Others cited a continuing lack of comfort in discussing sex with their parents, relating that they had deceived their parents about their current level of sexual activity.

One participant said that he had lied to his family about having sex with his girlfriend. Another participant reported that her father still thinks that she is a virgin.

Other entities that provided sex education to participants were school employees. Some received this education in primary and secondary education. Erick (male, interview) discussed his experience with homeschooling and sex education. "We had a curriculum that we followed, so I read about it and stuff like that." Other participants indicated they had not received sex education in classes until they reached college or that they had received more sex education in college. Steve (male, interview) expressed the belief that more people should be aware of college courses focused on sex. "I think we need to make sure that people know these classes are [there], maybe send out an email like the human sexuality class or something, because that's one of the things I learned, [that sex education courses existed]." In addition to classroom education, some participants reported having received education through presentations given to student organizations in which they were involved. For some participants, this was the way they got the most extensive and in-depth information.

A more formal entity that participants reported as having influenced their understanding of sex was the church, and with it, religion. One participant reported that the church had provided specific information on sex. Others said that they had not received messages from the church as sex "was more like hush-hush" (Brooke, female interview). Even those who had not received explicit education from the church noted the impact of religion on the messages that they had received. Lucy (female, interview) reported having received messages about sex from mentors. "I have different mentors,

their views of sex and then also just different religions [influence] how they view sex." Jenny (female, interview) talked about her belief that religion influences the messages that come from education and law makers. "In some way, religion does influence a lot of the educational system and the political system."

Outside of formal discussions about sex from parents, school, and the church, talking to friends and friends of friends was one of the most frequently cited ways that participants had learned about sex when they were growing up. In discussing other sources of information about sex, Clever Knight (male, interview) stated, "Then of course people at school, mostly talking, not actual truths." Some of the female participants mentioned people in high school talking about sex in a joking way or being shocked when gossiping about people having sex.

Outside of boasting, others talked about just working through things with friends because going to a parent was too uncomfortable. Tony (male, interview) talked about what happened when friends saw something of a sexual nature that might have been beyond their understanding.

> It came about, more or less, was the fact that they saw something very, I don't want to say overwhelming, but it stuck to their brain. It stuck to their mind and they're like, "I've got to tell people about this." From whatever they saw, viewed, heard.

Hearing about things and resolving what they meant was mentioned by a female participant, Ivette, in an interview. "There was guys I would hear would get, would have a blowjob in the restroom. Then I was like what's a blow job and then I asked and then

yeah." Most of the participants indicated that the friends with whom they talked were of the same sex. Those who reported talking to friends of the opposite sex about sex indicated that those conversations had usually happened since entering college or with friends whom they had known for a very long time. Another difference in the types of conversations that occurred when the participants entered college was that those conversations were less boastful and more real. Margaret (female, interview) indicated, "In college it's more of a real situation, so they need advice on something or it's for a class or something like that. That's the main difference."

Some participants reported having asked their friends specific questions about sex and how things functioned with partners. Steve (male, interview) reported going to a friend to understand what women would want in a sexual situation. "[I went to] one of my friends who was pretty sexually active before I was, so I asked what's okay for girls and stuff, and she talked to me, so I learned from her, and then she referred me to Laci Green." (Laci Green is a sex educator who shares frank perspectives on sex through videos on YouTube.) In addition to close friends of the opposite sex who gave advice or perspectives, some participants reporting having learned from sexual partners.

While for some participants information came directly from friends, others learned by being around friends of friends or friends of relatives. Travis (male, interview) talked about learning things by overhearing his brother's friends talk. "I have an older brother and my older brother had lots of friends as well that were hanging out so I learned through them quite a bit." Another participant described learning "by ear," from just paying attention to conversations around him. Anastasia (female, interview)

said that she tuned out these types of conversations. “And then whenever friends of classmates would talk about sex, I wouldn’t involve myself in the conversation.”

Anastasia indicated that she had not learned anything about sex until she had sex with her boyfriend. She had tuned out information so much that she did not understand the physiology or anatomy of sex. “Tell you the truth, I didn’t even know where the penis was supposed to go until I had sex. So I learned it by doing it, I guess.” Others talked similarly about having learned about sex from their partners through discussion and engaging in sexual acts.

Much sex education that participants had received had come from direct interaction with other people. However, they also learned about sex by accessing the Internet and receiving messages from the media. A few participants reported having sought information on the Internet. Clever Knight (male, interview) said that he was “not ashamed to say [he’s] occasionally gone to Wikipedia and the Internet for help.” Erick (male, interview) talked about the wealth of available information on the Internet.

> The internet is a pretty helpful resource because you can go to Google with any sort of query that you want and you can find all kinds of answers. Yeah, definitely. It’s like, “Man, I want to know how to satisfy somebody and I don’t really know how to do that. I’m going to see what the Internet has to say.”

While those who learned from the Internet spoke of actively gaining information, information from the media was largely in the context of messages imposed on them.

Participants identified a wide range of media that provided sex messages, including music, print ads, commercials, movies, television, and the news. Caroline

(female, interview) said, “There’s no avoiding it. . . . I got it from . . . I mean, sex is everywhere. It’s literally in commercials for hamburger places at Carl’s Jr. It’s everywhere.” Caesar (male, interview) indicated, “Media is the first place seeing sexual things.” This idea that the media provide messages early on was also mentioned by Travis (male, interview). “There’s stuff in movies even if the movie isn’t about [sex], it might have a part that you see early on.”

While movies included sex, sex may not be nearly as graphic as what participants reported having seen in pornography. Steve (male, interview) explained that pornography was the initial way in which he learned about sex. “For years, and years, [pornography] shaped my ideas of what sex was going to be, and it took a lot of learning to unlearn that.” Travis (male, interview) reported having found a magazine under the bleachers as his first exposure to sex education. “First, the physical magazine that I found underneath the bleachers. It’s like in a movie or something, but that actually happened. That happened to me and a friend I was with.” Other participants reported that people had sent them pornography or that they had seen sex videos of friends on Facebook. Caroline (female, interview) shared,

> In high school we had our own little Netbook computer things. The school gave them to us. There was this website going around. I was checking my school e-mail, and someone sent me a link to this website, and I was like, “Oh my God, this exists?”

Ivette (female, interview) talked about her exposure through Facebook. “It was really more when I got into Facebook. When there was videos and stuff like, you know,

how people do pornos and they share it?" It was clear that participants had received messages from a wide range of sources, which could account for the wide array of messages that they had received about sex.

What Messages Were Given

The content of the messages from the many sources was varying, extensive, and sometimes contradictory. Messages included that sex is bad/a sin, there are many negative outcomes from having sex, sex is only for married people, sex is for older people, everyone is having sex at a young age, abstinence is the only way, abstinence is not the only way, do whatever makes you happy, this is anatomy and how reproduction works, make sure you have the right partner and do not get hurt, this is what consent is, do not rape and do not get raped, sex feels good, and a woman must look a certain way to be sexually desirable.

A frequent theme in these messages was about the potential consequences of having sex. These messages largely came from "adults" in the participants' lives. Some of these discussions were framed by telling the participant that they wanted the participant to be safe, while others induced fear and feelings of disgust about sex. Keisha (female, interview) talked about receiving safety messages from her father and from her school. "Basically, if you would have [sex], be safe. [My dad] would tell us, 'If you need this, then ask.' He was more open minded about the whole situation." Keisha described the education that she had received at school. "It was more so when [sex] should happen. We would be informed to [know] more about it so we won't just try to venture off and do it ourselves and not know much about it."

While Keisha was given warnings but also a choice about having sex, others had received the message, "'Don't have sex'" (Clever Knight, male, interview). He explained:

> It was always very, prohibitive, mostly, when given from an older person viewpoint. I say older person, I guess technicality then it would be from an adult viewpoint. It was normally prohibitive, or like, "Oh, this is a bad idea . . . you'll get STDs." And we went, "OK."

Lucy (female, interview) reported that she was instilled with fear about sex. "The sex ed class, it was more just striking fear of not having sex. . . . Then they alluded to date rape drugs and along the lines of that."

In addition to discussions regarding sexually transmitted diseases (STDs) and rape, participants recalled having been told that sex was a sin. Brooke (female, interview) reported how this was shared with her. "It was like, 'Oh, you don't need to have sex before marriage, because it's a sin.' And so I did learn about it there." Anastasia (female, interview) had been given this message more firmly: "The only thing my aunt said was, 'Stay a virgin. If you have sex before you get married, you're going to hell.' And I was thinking, 'I don't want to go to hell.'" Anastasia shared the impact of those messages. "I just felt like [sex] was disgusting." These messages of fear and abstinence, paired with media portrayals of sex, caused confusion for Caroline (female, interview), who stated, "I've been taught that this is bad. Why are all these people doing this on camera?" In reflection on this moment of confusion, she commented, "That is the

message that you get. Girls being sexualized is okay, but heaven forbid they actually have sex."

While education focused on fear, abstinence, and safety was prevalent for most of the participants, they received other messages as well. Erick (male, interview) recalled a conversation with his father, who tried to give a balanced perspective on sex. Erick said that his father said, "[Sex is] really healthy and a really awesome thing whenever it's done under the right circumstances." Jenny (female, interview) began to shift her understanding of sex as she got older. "I learned that [having a reputation as a certain kind of girl] was something that didn't have so much importance as adults made it seem." Caroline (female, interview), who had experienced conflicting messages when younger, indicated that messages from her mother changed as Caroline got older.

> She's definitely more of the . . . . She used to teach wait until marriage, and then now she's just like, '"You know what, if you are 21 years old, so just as long as you're being responsible and using protection, then you can do whatever you want."

Two other participants reported having received messages about making sure that when they engaged in sex they were smart about what they did and with whom they did it. Annie (female, interview) shared a conversation with her mother about sex: "Just be wise in your decisions and always respect yourself, that was the main thing." Lucy (female, interview) reported that her cousin had encouraged her to make "sure to have sex with the right guy."

The other main messages that came from "adults" in the participants' lives were about anatomy and procreation. These messages often came from health courses that focused on anatomy and how babies are conceived, and often contained previously cited messages regarding STDs and infections. There were also often discussions about puberty in these classes and conversations with parents. One participant reported having learned about anatomy when a boy had exposed his penis to the participant. Other participants shared how they had learned about anatomy and physiology from peers. Some female participants reported having heard boys talking about their penises getting hard and masturbating. Ivette (female, interview) relayed having heard that a penis goes into a girl's "empty hole." After hearing that, "I had to ask my mom and then she told me." Other messages that participants cited from peers tended to be about how good sex felt or boys bragging about how long they lasted, sending the message that delaying ejaculation was a good thing.

The messages that participants reported having received from media and pornography were focused on sexual expectations. Brooke (female, interview) discussed the impression that media portrayed that everyone was having sex at a young age. "I guess movies and stuff, they portray [sex] at really young ages, with . . . and so it feels like, oh, if you haven't had sex by a certain age, you're behind on the game." Travis (male, interview) stated that the messages about everyone having sex influenced his understanding of sexual expectancies.

> Social media is very sexualized and I think it makes sex very common place or even to the point when some people may even feel like they just deserve sex if people come over.

Steve (male, interview) talked about sexual expectancies that come from men watching pornography. “They think that if you just stick it in, they’re going to react just how it is on porno or something.” Kris (female, focus group) talked about a different way in which the media set expectations. “I feel like, in magazines, there’s all these beautiful thin women, they look perfect, and that’s what turns guys on.” Kris said this when the group was discussing women tending to be self-conscious and concerned that they are doing something wrong if their partner freezes or is not actively engaging in sex.

In the midst of all of the messages that participants indicated that they had received about sex, few mentioned the idea of consent. Travis (male, interview), talking about consent, indicated that he had not received much education on the topic. “I think consent is something that, I mean as far as the university goes, very rarely do I hear it talked about. I’m coming from engineering so we don’t talk about many things other than math and science.” Others reported having received messages about consent but only briefly or in a limited way. One participant reported consent being talked about briefly in one class. Lucy (female, interview) shared what she had gained from a class in which “they did mention being mindful of what consent is and what [it] is not. More so for the girls. Rape, those sorts of things.” While these participants had had few discussions about consent, two had undergone extensive training on the topic.

The male focus group contained participants who had received extensive trainings on consent. They were part of an organization that spent time every semester in discussing consent, university expectations regarding consent, and the law. While these participants did not necessarily approve of the format of this education, they described it as useful. Reese stated, "It will make them make an attempt to get consent more than just some random person. It may not be perfect, but it's something." However, he pointed out a gap in the training, indicating that it typically focused only on one-night stands or having sex with someone for the first time. He shared,

> I think a lot of these situations and even presentations, they're all focused on either the first time, or one night stands. Nothing is ever focused on, "is this a sexual relationship?" Because that's one of those things where you can't just consent once, and it's good for 30 years, but that's never brought up and never talked about. I think that brings an interesting aspect that a lot of people don't think about.

Despite this gap, it was clear that both of these participants considered the formal education that they had received as important.

There were also more informal ways that participants had received messages about consent. In some of these cases, the messages occurred due to experiences of people whom the participant knew. Tony (male, interview) shared,

> Given a situation probably about a year or so ago regarding a friend and another person that that whole situation was just a mess. There was no consent, even though they were both sort of seducing each other. She led him to the bedroom

> type of thing. They'd both been drinking. Up until that point, I did believe that there were other possible ways of consent, [other than explicit verbal communication], and at that point, I redesigned my way of thinking and aspect of the whole situation.

Rape had an impact on the messages that another participant had received regarding consent, as she shared that her mother was a rape survivor and thus emphasized consent with her and her brothers when discussing sex.

Outside of formal education, consent was also indirectly mentioned by participants who had set boundaries and had had conversations with their partners. Steve (male, interview) expressed, "And then I just know the rest is talking with my girlfriend and learning about how she responds, what she enjoys, what's okay, what's not okay, and just cementing those rules and stuff that we have between us." While some of this quote includes aspects of what may please his partner, the reference to rules between them demonstrates a level of consent discussion.

When Messages Came

While the age of education about sex was not specifically asked about, it was frequently mentioned and formed an emerging theme. Some reported formal learning about sex in later grades in elementary school, although most indicated that education came during middle school. This was a time when most participants indicated that they had had health classes, when peers started talking about what was going on, and when parents recognized the need to discuss sex as their child reached puberty. Tony (male, interview) reported not having received education until high school by choice. "They

offered [health] in junior high, and instead of taking it in junior high, I took my speech class."

Despite middle school sex education, two participants shared learning that had occurred later. Clever Knight (male, interview) shared,

> One day I was just sitting there in front of the TV with my father, who highly encourages scientific learning, and I was like, "Dad, how does the baby get there?" This was years after the sixth grade sex ed course I had, and still didn't know.

Lucy (female, interview) shared, "I really didn't start learning about intimacy and truly loving and caring about other people until probably my senior year of college. I've always had a very disconnected feeling of sex."

Some participants shared that they really had not received any direct and explicit education until they reached college. This was connected with challenges of educating younger individuals. Specifically, one focus group discussed how to get children and adolescents to take things seriously instead of giggling at the use of anatomical terms or concepts such as penetration. Despite some challenges in early education, it is clear that learning about sex started for most of these participants in middle school and that more extensive education occurred after entering college.

Beyond the Research Questions

Through the naturalistic process of this qualitative study, a variety of items emerged as themes that were not directly related to the research questions, although they could be closely associated to the research questions. This section provides information

about these additional aspects that emerged during the study. Specifically, the results are related to individual, relational, and situational context, social constructions including aspects of sexual scripts, emphasis placed on verbal communication, ways in which participants personalized what they were saying, eliminated factors of internal consent and feelings, intoxication, and non-consent, and expressed confusion about how to answer questions.

Context

Many participants, both in the interviews and focus groups, mentioned *context* when discussing sex. This context was in three categories: individual, relational, and situational. The participants stated that context affects nonverbal communication and how people may interpret nonverbal cues. Context also influenced participants' expressed emotional connection to sexual acts, as well as sexual expectancies.

Individual. Multiple general statements about individual differences were made in discussing sexual interactions such as "it's different with every person" (Tony, male, interview), "it depends too on the person" (Erick, male, interview), "I think it really varies from person to person" (Nish, female, focus group), and "I think it also depends on personality type" (Jean, female, focus group). Some participants were more specific about how individual differences affected sexual interactions. Caroline (female, interview)said that individual differences influence the type of online dating tool that someone might use, which in her mind demonstrated the type of relationship that attracted the person. "There's a distinction between people who are on OkCupid or eHarmony. Those people are obviously looking for a relationship." This was in contrast

to those who might use an application such as Tinder and might be interested in sex for pleasure instead of emotional connection.

Participants in the focus groups engaged in greater degrees of discussion about individual context. One of the female focus groups had a discussion about lack of resistance and silence and how individual differences affect how those behaviors should be interpreted. During this discussion, Pam stated, “Some people, I feel like, don’t do anything during sex. Maybe they’re not super sexual people, so they may just lay there and make no sound.” Kelly, another participant in the same focus group, said, “I feel it depends on the individual person and whether they’re more dominant or more submissive. I think that also comes into it as well.” During another female focus group, Nish indicated that communication may be affected by one’s level of readiness to engage in sex. “I think it really depends on the person and their experiences, and if they’re ready or not to engage in this encounter.”

Another individuated aspect that was raised about lack of resistance and/or silence concerned whether a person was a virgin. In some cases, the participants noted that individuals may be nervous if never having had sex, which could affect how they respond in a sexual situation. Nish (female, focus group) indicated when talking about the complex scenario, “We were talking about how people can freeze up if they’ve never done something like this before and how they might just not know what to do.” Similarly during an earlier conversation in that focus group when discussing the simple scenario, Bre said, “Maybe you’re laying there because maybe you’re just laying there, like, okay, I don’t know what to do and they obviously know what to do and so I’m just going to lay

here and go with it." These individual contexts influenced participants' determination about specific nonverbal communication and whether it indicated that someone was into sex.

Relational. The second level of context that participants discussed was the context of the relationship of the parties involved in the sexual interaction. In the focus groups, participants made many statements establishing what they believed to be the context of the relationship between the people in the scenarios. Three impacts on relationship contexts were noted. The first was that the longer the partners know each other, the more likely that they are able to read their partner's nonverbal communication. Kelly (female, focus group) stated during a discussion on lack of resistance that, "if you have a long history with each other, even if it's not an intimate relationship like sex, I think you know the person well enough to know when to stop." In another female focus group, Bre talked about the opposite effect when the partners do not know each other as well.

> It's kind of like you were just going to have sex with somebody, like me, if I was just [going] to have sex with a new guy that I met at a party, or a guy that I've known for 3 months, we're still talking, I feel like [if] I were to become hesitant, maybe they wouldn't notice that.

This level of knowing one's partner appeared to be an important context for the participants in understanding what the other person is communicating. This may have a connection to the next context about emotional attachment.

Another aspect of relationship context and its impact on sexual interactions is that there tends to be a greater level of emotional attachment as the partners have known each other longer. Lucy (female, interview) stated, "I think if it's an acquaintance, it's less emotional." Another participant in one of female focus groups, Bre, brought up her emotional connection with her boyfriend and stated that the length of time the partners in the scenarios had known each other likely influenced the level of emotional connection:

> And I think also that when you're engaging in that act—I have only ever engaged in that act with my current boyfriend—and I'm in love with him, and when I'm engaging in any sexual activity, I really am not—it's not just about his body, it's about our emotional connection as well. So I feel like a lot of times, this, situations like this, like the first scenario, where they don't really know each other. And then it's not as much of an emotional connection, it's more of a physical connection. But then there's situations like this, where they've been friends for years, and you know, I think it really differs, you know.

When Bre was talking about these scenarios, she equated the emotional attachment to knowing one's partner longer to greater care for one's partner and emotional connectedness versus strictly focusing on the physical, pleasure aspects of sex.

The third way in which participants connected the relationship context to sex was a greater level of comfort in telling a partner no when the two have been together for a longer period of time. Travis (male, interview) indicated, "I do feel like actually being in a long relationship, consent has gotten clearer I would say because you're less afraid of rejection too, you're not afraid to say it or talk about it as much or as freely." This

concept was echoed in one of the female focus group discussions when the participants were discussing how they would react to someone who was being aggressive in initiating sexual contact that they did not want. During this discussion, Curly Sue commented,

> I think like by this point they are comfortable with each other to where like if I knew someone for a year and it got to that point and I didn't want it to get there I'd be like, "Okay dude, back off." 'Cause I know I wouldn't be as scared to say something if it was just somebody I didn't know.

Another participant in the same focus group, Jean, shared the challenges of saying no to someone if she had not known know that person as long.

> And then if it were a situation where it was someone I had met on—like this was a first meeting, I'd probably be like, "no, no," but it would be a harder no, like a more difficult, not a more steadfast no, but a more difficult no to say.

While the consensus in that focus group was that it is easier to say no to a person whom one had known for a longer period of time, Curly Sue provided an alternative relationship context that may change that level of comfort: "What if it's somebody that you've known for a long time, but you know he's liked you for a long time?" Whichever way one looks at the relationship context, the participants expressed that the level of comfort with one's partner affects the communication that occurs.

Situational. The last aspect of context that arose through this study was the situational context. Similar to the individual context, there were general statements made, such as "It depends too on the situation" and "I don't know, kinda depends on the situation." One of the situational aspects that led to discussion in one of the female focus

groups was related to the complex scenario when PJ stopped engaging and Shawn was checking in. Specifically, the group discussed Shawn's continued presence on top of PJ when Shawn was doing the check-in and how that may have influenced PJ's response. Curly Sue referred to a potential scenario of how PJ might have processed that situation: "The fact that they had already gone that far and so [PJ] was like, 'Well, he's already here and I led him to this point, and now I'm stopping him' and he's like 'serious?' and she's like 'eh, continue.'"

This discussion centered on situational context while the sexual act was occurring. Said differently, PJ's response was affected by the situation; that is, she was already engaged in sex. Another aspect of situational context that was speculatively raised had to do with potential prior interactions between the sexual partners. Specifically, one participant said when talking about the complex scenario, "They might have talked about [having sex] before and we just don't know it, or something like that." For this participant, if the situational context included a prior conversation that the parties wanted to engage in sex, the consensual nature of this scenario was clearer. Without this additional context, the participants had to assume that there was no prior conversation and thus based their perceptions regarding whether the scenario was consensual on what they read in the written scenario.

In the male focus group, the participants discussed situational contexts that might affect how much attention one partner pays to the other. During this discussion, Robert raised a variety of questions that might come up that could be distracting, such as, "What was that noise?" and "Did somebody just come in?" These participants, in discussing the

complex scenario, noted that it was easy to be sitting there reading the scenario and thinking that Shawn could have done better but that being in the situation would be an entirely different situation.

Social Constructs

Throughout the interviews and during the focus groups, participants occasionally made global statements that connected with social constructs. Social constructs are understandings of truth based on a certain society's beliefs about what is right or how things should function in a social context. For instance, in the United States, it is largely believed that an appropriate gift for a child assigned as female at birth is a doll, while a child assigned as male at birth would be more likely to receive a truck. A social construct may represent some form of perceived norm. An example of this is that the "normal" way to eat pizza is by picking up a slice with one's hands to deliver the pizza to one's mouth. While this may be considered a norm for some, others may consider eating pizza with a knife and fork to be normative.

Some of the statements made by participants regarding social constructs were made to explain things that the participant had said, while others provided specific commentary on social expectations. The generalized statements were nondetailed phrases intended to define something for the interviewer using normative language. Generalized statements by participants included, "I guess it's just the motion of the ocean," "all that kind of stuff," "I guess the main definitions of sex I would consider sex," and "like the normal." While most participants left these vague statements dangling, the last quote came from Caroline (female, interview), who subsequently

recognized some of the implications of the statement and said, “Normal is a bad word. I hate that word.”

Beyond these generalized statements, participants provided more direct commentary that fit within the context of social constructs. One of these constructs centered on societal expectations that people are engaging in sex. Clever Knight (male, interview) stated, “If you’re not a wuss, you’re going to do it.” Brooke (female, interview) commented similarly, “Or a guy won’t like us, or a girl won’t like us, if we don’t just go ahead and have sex, because everyone’s doing it. And you’re just [a] prude, I guess, if you don’t.” Jenny (female, interview) made a comment focused on a belief that people expressed about persons who checked into a specific hotel in the area where she grew up. She indicated that this hotel was the first place she had sex and that she felt self-conscious entering that space because of the assumptions that others would make about why she was there. “Yeah, because it’s not seen [as] a place for tourism. When you go to the hotel, [why] else would you go?” Another socially constructed concept was related to sexual expectancies when someone buys someone else a drink: “I think agreeing to let someone buy you a drink is something that I have noticed. Like if someone buys you a drink, then a lot of the time there’s expectation that goes along with that.”

Beyond social constructs regarding direct engagement in sexual activity, a conversation in the male focus group included issues with engaging in dialog about sex and other sensitive topics. The participants discussed challenges with voicing one’s opinion when it does not match that of the dominant group in the conversation. This

related back to conversations that this focus group had regarding impressions that some sexual assault education was "male bashing." This group also talked about social barriers and the challenges in finding ways to talk about sex:

> You get into a really hard place there when you're talking about . . . southern schools especially, very, very, traditional settings, where it's going to happen anyway. How do you provide the information, the education, in a way that's not violating the values of the people that you're presenting it to? (Robert)

In this statement, Robert was suggesting that prevention education on sexual interactions should fit within the social norms of the environment in which the education is given.

Beyond the social constructions cited above, the main types of socially constructed viewpoints that emerged were along gender lines. (Some of those results may be seen in the Sexual Scripts section below.) Curly Sue (female, focus group), talked about a general female characteristic that might affect how a woman reacts to her partner freezing during a sexual interaction:

> I think because females in general are so much more—[I] mean it might be a stereotype, but I know I am. I guess you're more insecure so you're paying attention to every little thing like, "What does his face say? Why is he looking at that? Why are the lights on?"

Others made broad gender related statements in passing, such as describing men as stupid or the socialization of women to hesitate in all aspects of their lives. Other gendered constructions were assigned to sexual scripts and are discussed below.

Sexual Scripts

There were multiple references to expected gender norms regarding sexual interactions. A few had to do with expectancies or attitudes about people who engage in sex outside of marriage. Jenny (female, interview) talked about the gatekeeper function that women are expected to play. The gatekeeper function is the expectation that women have the sole role in deciding whether someone has access to them sexually, with the expectation that this be allowed only in special circumstances and largely after substantial time has passed. Jenny shared,

> When I say in my culture, I don't want to generalize, but from the people I know, like my relatives, my friends, I would say that we have to make it hard for men. Yes. Make it seem like we're not interested.

In contrast, Jenny noted that it may be difficult for a woman to say no. "Men our age, they easily say, 'Stop. I don't want to do it.' I think [it's hard for] a woman to say, 'Stop.' What if I really like this guy and I don't want him to stop talking to me?" While Jenny noted that it may be difficult for women to play the gatekeeper role at times, other participants shared that, when a woman fails to gate keep appropriately, women are looked upon negatively but the men that get past the gate are looked upon with favor. This was expressed by Caroline (female, individual interview) who referred to the movie *Easy A*.

> There's a scene where she's in the room with a guy, and they're at a party, and they're being really loud. They're not having sex. They're just making sex noises, because he wants to seem really cool. . . . He walks out of the room, and

> everyone's slapping, and high fiving him. . . . She walks out, and they're just staring at her like she's garbage.

This was not the only way participants noted the negative aspects of sexual expectancies.

Two other ways that negative outcomes of sexual expectancies were discussed were related to men being assumed to want sex. Bre (female, focus group) shared her struggle with the idea that a man might be nervous or uncomfortable having sex:

> So when you were thinking about guys, kind of like, you kind of laugh off, or guys even really like they're, they're kind of "oh my god, what's happening? I'm nervous." I don't see it, but only because that's how society sees it, like they don't see it either. They don't see a guy being nervous about having sex with a girl.

This was all part of a larger discussion about women not always believing that they need to ask consent from their male partners. The negative outcomes of this perspective were expressed by Brooke, in another female focus group, who shared a story about a friend who ended up having sex with someone with whom he was not really interested in having sex because he did not know how to get out of the situation.

> Yeah, I feel like it's hard in that situation for like a guy, too. 'Cause like I've had a similar situation with one of my guy friends, like him and another girl. And he was like, "I'm not gonna say she raped me 'cause she didn't. I didn't stop it, but she was the one that initiated everything." And it got to that point and he was like, "I wanted to take it slow, I didn't want to get to that point." But at the same time he was like, "I couldn't stop myself." So it's like one of those things where

> he was like, "I didn't know what to do so I did let it happen." And he was like, "I don't necessarily feel super guilty about it," 'cause they ended up dating and what not, but still at the time he was like, "I just met you." But she's [the one] that initiated it and he's like, "I don't want to sound like a pussy, I guess."

Nish, in another female focus group, recognized this assumption but shared that she still asked her boyfriend for consent:

> Because I think a lot of times males aren't okay with it, it could be the guy's first time, you know, and I had to ask my boyfriend. I actually had to ask for consent. I asked my boyfriend if he was okay, 'cause I was ready to progress, and I wasn't sure if he was, you know. So I had to ask for consent.

Participants were clearly able to identify cultural sexual expectancies and sexual scripts but were also able to step outside of those in their sexual interactions. Despite the ability to step out of sexual scripts, the negative aspects of this expectation that men always want to have sex was not limited to the impact on men. Sandy (female, interview) shared how this assumption, along with understanding that some men resort to violence to get their way, affects how she experiences going out.

> I think that people should be able to go out with their friends without having to worry about creeps or, there's so many people that there's nothing wrong with that but there's . . . its like they're . . . . So most men are nonviolent but because those people are, we have to worry, and it's the same thing with you never know how people are going to act and so it just makes . . . . You're on guard all the time.

While many of the cited consequences of these social constructions were negative, some participants cited neutral outcomes, such as women allowing men to take more control in the sexual interaction or men experiencing surprise when their female partners were more assertive. Despite references to gendered differences in sexual interactions, others indicated that how they showed being into sex was very similar to how their partners of the opposite sex showed that they were into sex.

When participants were asked how their partners showed that they were into sex after having been asked how they showed they themselves were into sex, many indicated that their partner's ways of showing that they were into sex was the same as the participant's. Specifically, several participants said "the same" or used the word "reciprocal." Steve (male, interview) offered further explanation by stating, "She does the same thing about the kissing and the touching and stuff like that, and that's how I know [she's into it]." Travis (male, interview) simply stated "kinda the same thing, but in the opposite." An example of what Travis said is that, if Travis were to indicate that he was into sex by pulling his partner in, his partner would reciprocate this action by pulling Travis in.

Another way participants raised aspects of sexual scripts was seen in the focus groups. The scenarios used in the focus groups did not contain gendered pronouns, leaving it to the participants to assign gender or not. With the exception of one focus group that maintained a nongendered conversation, some participants in each focus groups gendered the players in the scenarios—in the exact same way. The partners involved were always one man and one woman, and the penetrator was always the man.

Verbal Communication

Verbal communication was discussed in a variety of ways in the interviews and focus groups. Verbal communication was usually talked about without having been explicitly asked about it. One of the ways in which verbal communication was raised was in asking participants how they or their partners showed that they were into sex. A few participants indicated that compliments showed interest. Tony (male, interview) responded to the question above by stating "the use of appropriate compliments to show you're interested as far as like, 'hey, I like you.'" Another aspect of verbal communication was providing or receiving instructions on what someone liked. Kelly (female, focus group) explained this by saying, "This isn't necessarily related to consent, but it's still related, I guess. It might make sex more enjoyable if they're communicating on what they want and what they like." This statement was made following a question of what was missing from the simple scenario.

While there was substantial agreement among participants that consent may occur nonverbally, some held that this was not the case. When Lucy (female, interview) was asked whether a fully consensual sexual interaction could happen without talking, she responded, "I definitely don't think that's possible. I don't know how other people do. How they would do that without talking about anything?" Others held similarly strong opinions. Brooke (female, interview) responded to the same question with "probably not consensual sex." This perspective was not limited to female participants. Steve (male, interview) also responded to that question saying, "I don't think that's adequate, ever." Tony (male, interview) contended that anything beyond "making out"

should involve verbal communication. “But if you were to go further, definitely have a verbal conversation regarding the situation.”

While these participants expressed the need for verbal communication about sex across the board, others said that verbal communication should occur some of the time. Sandy (female, interview) shared that the level of respect for one’s partner affects whether a verbal exchange is needed. “Not like in extreme instances I guess you’ll need verbally, but I think if you have mutual respect for someone then you can have nonverbal cues.” Travis (male, interview) stated that verbal communication can be awkward at times but can still happen. “But I guess earlier on it was, it was more uncomfortable to actually just explicitly say it, but that did happen as well.”

Participants in the focus groups expressed conflicting feelings about the scenarios. While the individuals in the scenarios used only nonverbal communication during the sexual exchange and the focus group participants decided that the scenarios were consensual, they struggled with the lack of verbal exchange. Jane shared, “I think for me personally, I haven’t had many partners, but it makes me feel a lot more comfortable if there was verbal consent and [we] talked about boundaries.” Pam, in the same focus group, stated,

> Maybe if you know that person well enough and you can read their facial expressions if they’re expressive on their faces or looking into their eyes, but I don’t think there’s nonverbal way that is as good as verbal to check for consent.

While these participants placed a preference on verbal exchange for clarity, another participant in a female focus group, Jean, emphasized just getting to the point:

"Like, all of this is nice, and building up is nice, but I'm happy to get to the point and just ask."

Up-front consent was not the only time participants indicated that a verbal exchange would be preferable. Participants also agreed that a verbal exchange would be important if one of the partners freezes, which came up in discussions of lack of resistance. A male participant indicated that he would ask a question if he was not sure that his partner was into it. Sandy (female, interview) indicated that, when lack of resistance was present, "verbal communication needs to be made a priority." This concept of verbally checking in also came up during focus groups discussions, particularly when discussing the complex scenario that involved one partner, PJ, failing to reciprocate at one point in the sexual exchange. One participant in a female focus group, Curly Sue, shared that she believed that Shawn, the more active partner in this sexual interaction, "could've, instead of just looking at [PJ], and waiting for [PJ] to nod, [Shawn] could've asked [PJ] directly if [PJ] was okay with it." Curly Sue explained that, if she had been Shawn, she would have gotten out of the position and asked "What is wrong? Are you okay with, do you want to continue? Do you want me to stop?" In a similar discussion in another focus group, Jane shared that "nonverbal cues are just really hard in assessing the other person's desire to be involved."

Regarding verbal communication in times when there may be hesitation or confusion about what is going on, some participants assigned the responsibility to verbalize to the hesitant party. Tony (male, interview) stated his preference that partners would say whether they were not okay with what was happening. "What I prefer, but

very rarely happens is the verbal communication of, 'hey, I'm not comfortable with that,' which I don't understand what the issue is with that." This expectation was also expressed during focus group discussions about the complex scenario. Some participants stated that, if PJ was uncomfortable with the situation, then PJ should have said something.

Flirting and Use of Social Media

Flirting and use of social media, discussed above in nonverbal contexts, were also cited in verbal contexts as ways in which participants indicated that consent was communicated. Flirting was described as a way of knowing whether one person is "into" the other. While some flirting behavior was left undefined, there was specific reference to verbal flirting over social media. Erick said,

> Generally, if we've been flirting and things that we've been saying have been sexual and then we meet and those things that we've been talking about or whatever happen in reality and they've never told me anything to counteract that idea, then yeah, I would say that….sex is okay at that point.

Similarly, this type of flirting behavior over social media may be seen through the use of applications such as Tinder. Sometimes, however, this communication is not clear. Steve (male, interview) stated, "I've definitely witnessed cases where people my age that are sexually active where they, one girl or one guy, they're hinting at something, they meet up, and then, 'hey, I was, I didn't mean it that seriously.'" Either way, engaging through social media may send early messages to a partner regarding sexual intent.

Personalizing

While the questions asked in the interviews were directed at personal experiences, participants shared personal information that went above and beyond the questions that were asked. Participants in the focus groups similarly disclosed personal information when most of the questions asked in that setting were about the simple and complex scenarios. The way in which participants personalized the information was by sharing that came in two forms: facts about self and anecdotes.

Facts about self. Most of the personal facts presented by participants appeared to be an attempt to provide context for their responses to questions. For instance, Curly Sue mentioned being "very verbal" in a female focus group that was discussing why they were uncomfortable with the fact that there was no talking in the scenarios. Other participants made similar statements about being "verbose" or noting that they "talk a lot." Nish, in a different female focus group, indicated that, if she were in the situation depicted by the scenario, she "would have loved the guy." The personal facts were varied, but some of the common types of personal disclosures are included below.

One of the more frequently raised personal facts was the number of sexual partners that the participant had had. Participants disclosed having had sex with only one person or, in other cases, with multiple persons. Participants also frequently disclosed the length and seriousness of their past or current relationships. Some shared their experience with the first time they had engaged in sex. Another aspect of generalized statements about personal sexual experience came from a few participants who shared the type of people with whom they spend their time. Caroline (female, interview) shared,

"I also try not to surround myself with people that expect sex from people, or just think they're entitled to it." Participants also described the types of people with whom they had been intimate.

Other types of personal information provided included marital status of the participant's parents, how love was expressed in the participant's family, the type of school the participant attended before college (homeschool, public, private), and the political or religious environment in which the participant grew up. Erick (male, interview) expanded on the impact of his religious environment.

> I've actually thought about this a lot because . . . . So, I'm Christian and a lot of times I'd have a huge internal struggle as to what I really categorize as being sex and how far, what kind of boundaries I want to put on myself.

This struggle that Erick shared is about his identity and the influences of who he is as a Christian versus the direct messages that other participants received about sex from religious institutions. This type of personal information provided context for participants and how they conceptualized and responded to sexual situations.

Anecdotes. The anecdotes that participants provided during interviews and focus groups also provided a lens on participants' viewpoints. Some anecdotes related directly to personal experiences and some related to stories about others. Personal anecdotes that related to specific sexual experiences frequently framed their viewpoints on sex. Steve (male, interview) shared,

> I've been in a situation where I managed to back off in time. Because I thought that someone was okay with my advances, and then the context, you talked about

> lack of resistance earlier. I managed to pick up on the small signs that she was uncomfortable and thank God I backed off in time; otherwise, something terrible could've occurred.

Steve indicated this experience has made him more cautious and more direct in his communication with partners. Erick (male, interview) talked about getting caught with his friend looking up things on the Internet and how he and his friend had got into "terrible trouble." This experience limited further exploration on the Internet.

Two participants spent some time discussing their experiences with media. Caroline (female, interview) talked at length about her impression of a Carl's Jr. advertisement that involved a very trim woman eating a hamburger on the hood of a car while wearing a bikini. She described this as ludicrous and a demonstration of the sexualization of women in the media. Jenny (female, interview) talked about billboards and other signs blatantly talking about sex, acquired immune deficiency syndrome (AIDS), and abortion when traveling in Africa. She stated that she was shocked by how direct and straight forward these billboards were in comparison to those where she grew up. This personalization of information provided context for what the participants believed and why.

Eliminated Factors

For the purposes of this study, some factors were pulled out of the sexual equation to focus more narrowly on affirmative nonverbal consent. As nonverbal communication should be perceivable by one's partner, internal consent and internal feelings that are not outwardly expressed were not considered in this study. Also, the

impact of intoxication on sexual interactions was not included. Non-consent indicators such as saying "no" or pushing someone away were also not explicitly solicited as the focus of the questions was on ways that someone indicates being into sex, not ways of not being into sex. Regardless of omitting these topics in the protocol, participants minimally raised these topics during interviews and focus groups.

Internal consent and feelings. Internal consent and feelings that are not expressed outwardly are not something that a partner would be able to determine when engaging with another person. However, participants brought up these concepts during interviews and focus groups. Keisha (female, interview) talked about sensing a "vibe" from partners but was unable to provide a tangible description of observable behavior that would show that the "vibe" was present. Annie (female, interview) talked about how she would show she was into sex by saying, "I guess there would just be a known thing and we would just keep going." Jenny (female, interview) said that knowing that someone was into to it would be based on "intuition." She explained this intuition and knowing when it had occurred for her: "You could tell from [interacting]. It was consent. We both knew what we were doing. It's not like, 'oh, we're young and stupid.' No, we knew exactly what we were doing."

While participants in interviews used internal consent and feelings to describe a way of knowing, those in the focus groups used internal consent and feelings to speculate about the scenarios. Discussions about what the people in the scenarios might have been feeling were mostly brought up when discussing the complex scenario. The main focus of this speculation was about what PJ may have been feeling when PJ "does

not move and makes no sound." Reese, in the male focus group, said that the only one who could know whether there was consent in that moment was PJ. Others speculated about whether PJ might have been nervous, physically uncomfortable, or just distracted in that moment. Multiple people suggested that PJ may have just given in to Shawn because they had gotten that far or because PJ felt pressured in that moment to continue. These internal feelings were important to these participants. Two participants in one of the focus groups indicated that, if PJ had said that there were feelings of pressure or that PJ was scared in that moment and did not really want to proceed, that might have changed their answer about that scenario being consensual.

Intoxication. Intoxication through alcohol or other drugs was deliberately omitted from the protocol and yet the topic arose in interviews and focus groups. Interview participants mentioned intoxication when discussing whether silence or lack of resistance was an indicator that someone was into sex. Clever Knight (male, interview) stated, "If this is a drunken hookup, and she's no longer responding, that's not consent." Similarly, when discussing lack of resistance, Brooke (female, interview) stated, "But then there's also situation that . . . . I mean, like if someone was drunk or something, then obviously you can't just . . . . Because they're not gonna respond anyway." For these participants, the presence of alcohol in the system, in combination with lack of resistance or silence, meant that consent was not present.

In the focus groups, participants raised the issue of alcohol and other drugs during the discussion of the complex scenario. The complex scenario includes the following sentences: "PJ invited Shawn to a party and Shawn accepted. They stayed at

the party for a short time." The reference to the party led some participants to speculate that Shawn and PJ may have consumed alcohol or other drugs. The participants' speculation about the use of alcohol or other drugs affected their viewpoint on the situation. Reese, in the male focus group, stated, "The other thing is, because they were at a party, we don't know how intoxicated they were, or if one was more intoxicated than the other, that could play something into it that we don't know about." Nish (female, focus group) indicated that there could be no consent if the individuals were drunk.

> And that's why drunk consent is so not a thing. Because it is like you can't recognize if you're overstepping boundaries, and you can't recognize if they're overstepping boundaries, or if they're just not into it. Because you're drunk, because you feel like "Oh, somehow we got in this bed together."

Participants made it clear that alcohol and other drugs clearly affect whether there can be consent.

Non-consent. The focus of this study was on affirmative nonverbal consent. Questions were focused on actions that people take to show that they are into sex. Despite this framing of questions, participants talked about non-consent—behaviors that indicate that someone is not into sex. Some participants said that the lack of presence of non-consent was an indicator that consent was present. Reese (male, focus group) stated that the simple scenario was consensual because "nobody's saying no." Caroline (female, interview), similarly said that she shows that she is into sex by "not saying no." Jenny (female, interview) shared that she shows that she is into sex by not stopping her

partner. Multiple other participants made similar comments, demonstrating that the participants considered that the absence of non-consent might indicate consent.

Not Knowing How to Answer

Many times, participants either responded "I don't know" or had to ask for clarification about what was being asked. A few questions specifically resulted in confusion or challenged the participants. The first question that tended to elicit a response of "I don't know" concerned how they or their partners showed that they were into sex. Anastasia (female, interview) said, "I never even thought about that" when asked how she shows she is into sex. Brooke (female, interview) outwardly struggled with the question: "And then, I don't know how it gets, really. I'm trying to think of how to put words just to that." Other participants struggled with indicating whether specific behaviors indicated that someone was into sex (Question 8 of the protocol in Appendix G). Specifically, silence, lack of resistance, and inviting someone into a bedroom led to a need for clarification.

For each of the behaviors cited above, participants sought context or clarification. In response to whether silence indicated that someone was into sex, Steve (male, interview) asked, "What's the context?" Lucy (female, interview) asked, "What do you mean by that?" Participants also needed clarification about lack of resistance. When asked whether lack of resistance meant that someone was into sex, Keisha (female, interview) asked, "I mean, if they're just sitting there?" Nish (female, focus group) processed lack of resistance aloud and indicated that she needed clarification. "I feel like lack of resistance is an indicator for . . . . But look, but what do you mean by, hold on,

can you say that again?" Inviting someone into a bedroom resulted in similar confusion. For this behavior, Anastasia (female, interview) asked "for me, or for them?" and Caroline (female, interview) simply stated, "I don't understand." Participants made it clear that they needed further context for these behaviors to be able to answer the questions.

Beyond specific behavioral clarification, some participants struggled not to contradict themselves or just struggled with the questions in general. During her interview, Jenny (female) repeatedly commented, "I don't want to say," indicating her struggle with responding to questions. Caroline (female, interview), while discussing pornography, indicated "Well, I mean . . . I don't even know how to explain this one. I don't know how to dig myself out of this hole." Caroline also made a general statement about the challenges of the interview: "These are hard questions. I was not prepared for this." This struggle to respond was not limited to female participants. Clever Knight (male, interview) responded to the very first question about defining sex with a bit of sarcasm and then struggled to find an answer: "Starting off with a pretty easy definition, okay. Contact between . . . Man that's . . . okay." Despite challenges in responding to some questions, the participants persevered and did their best to process the concepts that were discussed.

Chapter Summary

This chapter reports results pertaining to the research questions, as well as information about naturally occurring themes that arose beyond the research questions. Specifically, results included the following: how participants defined sex, nonverbal

indicators that show that someone is into sex, themes coming from written simple and complex consensual sexual interactions, messages about sex (from whom, what, and when the messages were received), and information beyond the research questions, including context, social constructions, verbal communication, personalization, challenges in responding, and non-consent.

CHAPTER V

DISCUSSION AND CONCLUSION

Nonverbal consent is a topic of research that has not received a great deal of attention. To date, very few studies have focused on the topic of consent generally, and nonverbal consent has been only an aspect of those studies. Despite this lack of research, college and university officials, governments, and higher education stakeholders have pushed institutions of higher education to implement affirmative consent policies. These policies not only require students to seek affirmative consent in their sexual interactions but also require college and university officials to make determinations after the fact regarding whether consent was present, when someone files a complaint. College and university officials are also required to educate students under their purview regarding what it means to get affirmative consent. When nonverbal consent is a part of affirmative consent, these officials have little on which to base decisions.

To address the conflict between the lack of research and policy and education, this study was designed to contribute to a growing body of knowledge on the topic of consent. Focusing on nonverbal consent under the lens of sexual script theory, the study addressed four research questions:

1. What do current traditional-age college students believe to be external nonverbal indicators of consent between two adult individuals when there are no questions of incapacitation?

2. What do current traditional-age college students believe to be a simple and obvious indicator of nonverbal consent between two adult individuals when there are no questions of incapacitation?

3. What do current traditional-age college students believe to be complex indicators of nonverbal consent between two adult individuals when there are no questions of incapacitation?

4. What messages have current traditional-age college students received about what consent is?

The research questions were addressed through a phenomenological study using individual interviews and single-gendered focus groups. The following discussion includes reflections on the research questions, as well as implications for higher education and future research.

Addressing the Research Questions

The interviews and focus groups led to understanding what the participants in this study believed to be nonverbal indicators of sexual consent. The individual interview participants' fictional stories of sexual consent deepened this understanding by providing context for simple and complex scenarios that depicted consensual sex between two parties. Participants provided a wealth of descriptions of what messages they had received about consent. These messages connected with cultural scripts that affected each participant's understanding of sex, including sexual consent. This discussion addresses each of the research questions.

Nonverbal Indicators of Sexual Consent

A variety of nonverbal indicators were cited by participants in this study as part of sexual communication. While there were some abstract references to alcohol and discussion of pressure from a partner (in relationship to the complex scenario), the global assumption throughout all of the discussions was that there was no presence of force, incapacitation, or coercion in the sexual situations presented. Given that context, the following is a discussion of the nonverbal indicators that were cited or otherwise discussed by participants. This section is organized based on whether the behavior was globally recognized as affirmative consent or was recognized only by some as affirmative consent and/or significant contextual pieces were included to make the behavior a *maybe*, not a *yes*. Another element discussed regarding these behaviors focused on the level of invasiveness that the behavior presents. Specifically, some behaviors do not require touching or exposure to another party, making those nonverbal behaviors less invasive than those that require physical contact or exposure of body parts that are culturally considered in the United States to be private.

Nonverbal yes. Some of the nonverbal behaviors that participants discussed were discussed only in the positive. The comments about these behaviors were only that they were indicators of sexual consent; no one said that these behaviors were problematic. As an example, some participants suggested that exposing one's genitals is an indicator of being into sex. No participants said that exposing one's genitals was not an indicator that someone was into sex. This may be contrasted with references to behaviors such as kissing, where some indicated that kissing was a way to indicate being

interested in sex and others indicated that kissing was not a way to know that someone is interested in sex. Behaviors that were cited only in the positive were sex noises and/or heavy breathing, nodding, display or use of contraception, arousal, exposing one's genitals, positioning, touching the body, guiding into position, assertiveness and initiation, drawing in/embracing, continuing action, and removing another individual's clothing. Table 4 is a summary of these behaviors, as well as those that reflected positive and negative responses from participants (nonverbal "maybe"). While participants cited only the behaviors listed above as positive indicators of consent, it is important to put these behaviors into context.

One piece of context related to these behaviors was how they were mentioned by participants. With the exception of removal of another's clothing, when these behaviors were cited by participants, it was in the context of providing examples of how the participant or the participant's partner showed that they were into having sex. Some of these behaviors were also cited during focus groups as ways that the participants identified that the sexual interactions depicted in the scenarios were consensual. In these contexts, it was uncommon for participants to look at the potential circumstances under which these behaviors may not be considered sexual consent. Most of the discussions regarding contexts when behavior may not indicate sexual consent arose when the questions were about specific behaviors. For instance, when they were asked about whether kissing was an indicator that someone was interested in sex, there were variable answers but those who brought kissing up as a way that they or their partners showed they were into sex did not backtrack and say "that's only in certain circumstances."

Table 4

Nonverbal Behaviors Indicating Yes or Maybe, Level of Invasiveness, and Strength as Indicator

Nonverbal behavior	Level of invasiveness	Strength as indicator
Nonverbal Yes (positive references only)		
Sex noises and/or heavy breathing	Minimal	Moderate
Nodding	Minimal	High
Display or use of contraception	Minimal	High
Arousal	Moderate to significant	Low
Exposing one's genital's	Moderate to significant	High
Positioning	Moderate to significant	High
Touching the body	Significant	Moderate
Guiding into position	Significant	High
Assertiveness and initiation	Significant	High
Drawing in/embracing	Significant	Moderate
Continuing action by the Recipient	Significant	High
Removing another individual's clothing	Significant	High
Nonverbal Yes in response to physical contact (positive references only)		
Reciprocation	Minimal	High
Escalation	Moderate	High
Continuing action by the initiator	Minimal	High
Nonverbal Maybe (mixed positive and negative references)		
Eye contact	Minimal	Low
Invitation into bedroom/ private space	Minimal to moderate	Moderate
Removal of one's own clothing	Moderate to significant	Moderate
Kissing	Significant	Low
Genital stimulation	Significant	High
Silence	Minimal	Low
Lack of resistance	Minimal	Low

Despite the participants' focus on these behaviors as ways to indicate being into sex, other potential contextual concerns should be addressed. Sex noises and heavy breathing may be problematic if they are not interpreted accurately. Specifically, I

worked a conduct case a number of years ago in which it seemed that the accused students in a sexual assault case misinterpreted sounds of distress as sounds of pleasure. It is likely that the presumption by those who talked about sex noises and/or heavy breathing was that they were accurately interpreting those sounds and actions as the other person being "turned on." However, these behaviors were not specifically cited in earlier studies on consent (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). Despite the lack of reference to these nonverbal consent behaviors in prior studies, in the context where one partner correctly interprets the noises of the other partner, sex noises and/or heavy breathing may be strong indicators of nonverbal sexual consent. These behaviors, in a sexual context, are also only minimally invasive in that they do not require touching and do not require exposure of private body parts.

Nodding, the second nonverbal behavior listed above, while only spoken about in the positive, was distantly connected to a potentially problematic area. There may have been some hesitation regarding nodding during focus group discussions when participants suggested that PJ may have felt pressured to continue. However, this spinning of potential emotions that PJ may have been feeling was general, and no one explicitly indicated that the nod may have been pressured. Furthermore, there is an assumption that force, incapacitation, or coercion were not present and thus in those contexts, nodding could likely be assumed to be broadly a nonverbal indicator that someone is into sex when the nod is directly related to a sexual ask. For example, if a woman asked a man whether he would like to engage in sex with her and the man nods,

that would considered nonverbal consent to engage in sex. Furthermore, it should signal consent only for that specific sexual ask. If someone nods to the question, "Would you like some salt?" that is not an indicator that someone is interested in engaging in sex, unless that is some kind of established code between the involved parties. Similar to sex noises and heavy breathing, nodding was not specifically mentioned in prior studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski Peterson, et al., 2014; Jozkowski, Sanders, et al., 2014). In this case, it may be assumed that nodding is an obvious indicator of consent and/or that it is akin to saying "yes," as mentioned in those studies. Also, like sex noises and heavy breathing, nodding is a minimally invasive way to indicate to a partner that one is into engaging in some specified sexual act.

The next behavior that was discussed only in the affirmative was display or use of contraception. Some participants stated that pulling out a condom or somehow indicating that one was on birth control was a way to indicating being into sex. In most cases, this seems to be a fairly clear message that someone is into sex. The display or use of contraception is supported by prior studies. However, in those studies, reference to contraception was a form of indirect verbal consent in that one partner asks the other whether that partner has a condom or other form of contraception (Beres et al., 2004; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014). The only caution regarding conversation or display of contraception is not to apply this form of communication too extensively. Similar to other behaviors, displaying a condom does not cancel out force, coercion, or incapacitation. This tactic was used as a defense by a man in the early 1990s. The argument was convincing to a grand jury who "refused to

indict" (Associated Press, 1993, para. 3) the accused. The man was later indicted by another grand jury and ultimately convicted. Despite this specific example, display or use of a contraceptive device is likely a strong indicator of interest in sex and is minimally invasive so long as the use is self-application of the device.

Another nonverbal behavior cited as an indicator of being into sex was arousal. Arousal may indicate that someone is into having sex. This physiological reaction to various forms of stimulus was mentioned by only a couple of participants. Furthermore, the context in which arousal was discussed was in knowing that the partner was into sex, not a way that the participant indicated being into sex. While physiological arousal may be consistent with one's feelings of internal consent, it is not always connected. In a consent study conducted by Jozkowski, Sanders, et al. (2014), the Internal Consent Scale (which includes wanting or desiring specific sexual activity) did not have a significant interaction effect with physical response (which included penile erection and vaginal lubrication).

The topic of arousal has been studied and published in the extensive literature on sexual assault. Suschinsky and Lalumière (2011) conducted a study on female genital arousal based on a wide range of visual stimuli. In their discussion, they indicated that their findings relating to female genital arousal supported the theory that female genital arousal was based on sexual preparation, not on female interest in having sex. Similarly, Sarrel and Masters (1982) found that men can achieve sexual arousal and even ejaculation when being assaulted and/or abused by another person. In these cases, arousal does not connect to internal consent. Furthermore, genital arousal was not cited

as a way to communicate consent in many of the consent studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). This may be because most of the framework for discussion on consent in these studies was based on how the participants showed that they were consenting to sex versus being focused on how a partner shows interest in sex. Jozkowski, Sanders, et al. (2014) discussed arousal in their development of dual measures of consent, but only in their developed internal consent scale and not in their external consent scale. Even including this behavior as an internal consent indicator is problematic for the reasons given above regarding the involuntary nature of this physiological act. Given that genital arousal is an involuntary physiological response to stimuli, it should not be relied on as a strong indicator of interest in sex.

Exposing one's genitals is more often deliberate. For the purposes of this study, the discussion is delimited to deliberate exposure of genitals. All participants who cited genital exposure as a means to communicate interest in sex were female and were talking only about men. Given that all of those who indicated a belief that displaying the penis was an indicator of interest in sex were recipients of this behavior, it is difficult to determine whether this is a universal signal that someone is interested in sex, as the perspectives of the acting parties were not represented. For example, a female participant recalled a little boy showing her his penis when she was a child. This exposure did not result in sex, and it seems unlikely that this little boy showed his penis and thought that this would result in sex. Whether this reflected an interest in having sex is completely unknown.

Prior consent studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014) did not reference genital exposure as a consent indicator. Jozkowski and Peterson (2014) included an initiator behavior in their development of the Consent to Sex Scale: "I would unzip my pants" (p. 639). While this behavior does not explicitly indicate genital exposure, it appears to be the closest behavior in the cited consent studies that would imply exposure. Even if genital exposure were included as a potential consent indicator in the prior consent studies, other studies have reported that exhibitionists may be displaying their genitals for a variety of reasons, none of which is based on an interest in sex (Piemont, 2007). Even if genital exposure were an indicator of consent, this indicator might be an assault on the person to whom the genitals were exposed. This potential assault is why genital exposure/arousal were cited as behaviors with moderate to significant levels of invasiveness in Table 4.

The next behavior for discussion is positioning, mentioned by only one participant in this study and not referenced in prior studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). However, it may be a strong nonverbal indicator of sexual consent. The specific positioning behavior that this female participant described was opening her legs for her partner. A naked woman lying on a bed and opening her legs may be a clear message; other positioning aspects could constitute even more of an invitation, perhaps reaching out to her partner and/or spreading her labia. However, out of that context, a woman may be lying in a doctor's office during an appointment. At

that point, the behavior does not seem as clear. Thus, context matters; however, in context, positioning could be considered in determining whether the partner is into having sex. Similar to genital exposure, one should be aware that this may indicate consent by the acting party who then should be aware of what the partner(s) is communicating in return. Some kinds of positioning could be offensive to the intended partner if the partner is not equally interested in engaging in sexual activity, making this a moderately to significantly invasive behavior.

The rest of the behaviors discussed solely in the affirmative were also only indicators of consent for the acting party. Furthermore, all of those nonverbal behaviors require physical contact with the other party, making them significantly invasive forms of communication (Table 4). These behaviors run the risk of crossing a line if the receiving partner is not into the initiated behavior. Relying on cultural sexual scripts, this is more likely to be problematic for men who are attempting to initiate with a non-spousal female partner because the female partner is expected to be reluctant to engage in sexual intercourse, particularly if the action is in early stages of the relationship. How the recipient of such behaviors responds to nonverbal indicators of consent is what would be indicative of whether the behaviors are acceptable and consented to by the recipient. (Further discussion of a recipient's responses follows below.)

Discussion of physical nonverbal indicators begins with someone being into sex by touching the body. A few participants cited body touches as ways to show or to knew that the partner is into have sex. Touching the body also consistently discussed in prior consent studies (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999;

Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). The researchers in those consent studies wrote about touching or sexual touching while separately discussing hugging and caressing. In the current study, touching the body was contextualized with specific types and locations of touch. The waist was mentioned repeatedly as being an area of touch that led participants to believe that someone was into sex. Other touches were "intimate" touches, such as touching the face or rubbing with a thumb. The touches cited in this section do not include genital touch, as some genital touch was discussed in the context of someone just wanting to stimulate the partner and "then leave." Thus, genital touch is included in the section on nonverbal "maybes" below.

Understanding that genital touch is a maybe may provide insight into this general category of body touch. If genital touch is a maybe, it is difficult to imagine that body touch is a definite yes. In many circumstances, someone may place hands on another's waist and not be into sex: dancing, attempting to walk past someone, or contact that happens while making out (see Appendix A, Definition of Terms, making out). Furthermore, intimate touches may reflect general intimacy, not necessarily being specifically into sex. This may be one of those behaviors that is based on individual characteristics, as the references to these behaviors were connected to participants' current partners.

Guiding a partner into position is seemingly a strong nonverbal indicator that someone is into some element of sex. Participants in the focus groups indicated that PJ guiding Shawn back into position following a moment of question contributed to their conclusion that the interaction was consensual. Several women stated that men pushing

women's heads toward the penis was a clear indicator that the men wanted the women to engage in oral sex. Jozkowski and Peterson (2014) discussed positioning behavior in their Consent to Sex Scale, including moving one's partner's hand to one's pants or lower body. Given the single-gendered reference to oral sex guidance above, it would be interesting to see whether there was a similar gendered difference among participants in Jozkowski and Peterson's study relating to guiding a partner's hand to the lower body. This may be consistent with cultural sexual scripts in which a male partner is more assertive in initiating and guiding sexual activity. Unfortunately, the women who talked about the behavior of guiding to oral sex appeared to have negative feelings about men who pushed women's heads. This reinforces the idea that this behavior is significantly invasive and should be engaged in with caution. Other than concerns that the recipient of the guiding behavior may not be equally into the sexual act, guiding into position is seemingly clear nonverbal communication that the acting party is into sex.

Drawing-in/embracing was favorably cited as an indicator that someone was into sex. For anyone who has experienced a platonic hug, this behavior is clearly contextual. However, participants agreed that the action was a part of a nonverbal sexual exchange and the act was cited in prior studies on consent (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). When drawing-in and/or embracing are put into a private space, where the contact is standing or lying, full-body or focused between the upper thighs and waist, this behavior may more clearly convey sexual communication. Furthermore, this behavior could be paired with positioning. If someone positions and then draws the partner in, this too

could be considered by the acting party to be nonverbal consent. This drawing-in and/or embracing seemed to be paired with other sexual activity. For instance, there was reference to drawing-in while kissing or making eye contact. Such behaviors in combination may be a strong indicator of interest in sex but significantly invasive if one's partner is not into the behavior.

Continuing action was another nonverbal behavior that participants indicated showed that they or their partners were into sex. Continuing action consists of persisting with behaviors that have already been initiated. As an example, if there has already been consent for penile penetration, continuing action would be thrusting into the agreed orifice. In addition to the current study, Jozkowski & Peterson (2014) included this behavior in their Consent for Sex Scale. In that study, they categorized this action as a passive behavior that potentially implies that this would be continuing action on behalf of the recipient of initiated behaviors. If, in contrast, one assumed that the initiating party was the one continuing the action, continuing action would seemingly indicate only that the person was providing ongoing consent to something to which the person had already consented by initiating action in the first place. Further discussion on continuing action from the standpoint of the recipient is presented below. As many affirmative consent policies include continuing consent in order for the sexual activity to be considered consensual and within bounds of these policies, this aspect of nonverbal consent is useful to consider.

The last nonverbal communication method that participants indicated to show interest in sex was removal of another's clothing. This behavior was discussed in a two

earlier consent studies (Beres et al., 2004; Hickman & Muehlenhard, 1999). Unlike any of the other behaviors, removal of another's clothing was asked about specifically in the removal of clothing question. The only contextual reference that participants provided related to removal of another's clothing that would mean it was not an indicator of nonverbal consent was when force was used as the other person did not want the clothing removed. This would mean that the behavior was not an indicator of consent by the recipient of the clothing removal. Given this contextual caveat about the recipient of the clothing removal, all references to removal of another person's clothing as an indicator that the acting party is into sex were affirmative. Despite this, similar to all of the other behaviors discussed in this chapter thus far, it is important to look at the full picture and understand that the participants were likely placing this behavior in a sexual context, as that was the focus of the interview.

These behaviors (exposing one's genitals and/or arousal, positioning, touching the body, guiding into position, assertiveness and initiation, drawing in/embracing, continuing action, and removing another's clothing) have the potential to cause harm to a partner if that partner is not also invested in having sex, in which case they would constitute moderately to significantly invasive behaviors. Ideally, one would know prior to initiating these actions that the partner was interested in seeing the acting party's genitals or being touched by the acting party, but some nonverbal behaviors were indicated by participants to be indicators that the recipient is consenting to what has already been done.

Nonverbal yes to physical contact. Two nonverbal behaviors that participants spoke about represent ways in which people communicate being into sex in response to someone else's initiation. The first of these behaviors is reciprocation. Participants mentioned reciprocation extensively in both the interviews and the focus groups. This behavior was included in two former studies on consent (Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014). The assumption that the initiation was sexual in nature places reciprocation into the appropriate context to indicate that the recipient is into the sexual act. In thinking about the general progression that participants described, an early sexual behavior that was identified was kissing. Participants mentioned the partner kissing back and concluded it was easy to tell whether someone was kissing back versus having limp lips or pulling away. This can also be applied to the nonverbal behaviors cited above as indicators of consent by the acting party.

For example, if PJ were to reach down and grab Shawn's butt (body touch), this would likely be an indicator, in the appropriate context, that PJ was into sexual touching of Shawn's butt. If in response, Shawn reached down and similarly grabbed PJ's butt as an act of reciprocation, that might be an indicator that Shawn was not only into sexual touching of PJ's butt but also that Shawn was into having his butt grabbed by PJ. If one applies the concept of a progression in action, this ongoing reciprocation through the various acts of sexual contact may show that consent is present. This mechanism for indicating consent is considered minimally invasive in that it mimics behavior that was already exhibited by the sexual partner.

Taking things a step further than reciprocation is back-and-forth escalation, as one participant in the male focus group pointed out regarding the complex scenario. Specifically, he described the back-and-forth behaviors between PJ and Shawn as ongoing escalation of the sexual activity. Using the example above, if PJ were to grab Shawn's butt over Shawn's clothes, a step of escalation might be for Shawn to grab PJ's butt under PJ's clothes. Similar to reciprocation, Shawn's action likely indicates that Shawn is okay with PJ grabbing Shawn's butt. PJ may then escalate by pulling off Shawn's pants. If ongoing consent is present, this back-and-forth escalation may occur until ending at a behavior that is the farthest PJ and Shawn will go, at which point one partner or the other will engage in a simple reciprocation instead of escalating. The challenge with escalation is similar to the behaviors cited above that indicate consent only on behalf of the acting party. Escalation at any point during the exchange is only an indicator of consent by the acting party and may be going beyond what the partner is comfortable in accepting. Assuming that the escalation is gradual and not abrupt, this behavior may be only moderately invasive. If it escalates from fondling of the butt over clothes to fondling of the butt under clothes, this may be less invasive than moving from kissing to genital fondling.

Continuing action, also discussed above, may also be a way for a recipient to respond affirmatively to the acting party. If the acting party penetrates the recipient and engages in thrusting, the recipient may reciprocate and then continue that thrusting through completion of the sexual act. Principles that apply to reciprocation may apply to continuing action, making this a minimally invasive way to communicate consent.

However, one might argue that continuing action could be an act of escalation if the original acting party stops. Continued vigilance by both parties is necessary to determine whether each party is into the current sexual act.

Nonverbal maybe. While the behaviors discussed above were mentioned by participants only in an affirmative manner, meaning that the participants gave contexts only in which the cited nonverbal behaviors were indicators of consent, some behaviors were not as clear to the participants. Specifically, participants discussed the following nonverbal behaviors as only possibly being indicators of someone being into sex or not being indicators at all: eye contact, invitation into a bedroom or other private space, removal of one's own clothing, kissing, genital stimulation, silence, and lack of resistance.

Eye contact is a nonverbal behavior that may occur early on and throughout a sexual encounter and does not require physical contact between parties. Participants talked about eye contact in interviews and focus groups. Participants agreed that making eye contact with one's partner may communicate interest in that person. As eye contact continues throughout a sexual encounter, participants identified it as consensual. This was specifically cited in discussions of the simple and complex scenarios. Eye contact as a mechanism to know that consent is present was supported by Beres et al. (2004), who reported that eye contact with one's partner was cited by 74% of their participants as present during consensual sexual encounters. However, the participants in the current study did not agree that eye contact, by itself, was an indicator that someone was into sex. They described other times when eye contact might be maintained between partners,

including simply having an intimate moment that did not involve sex. Furthermore, this does not take into consideration basic eye contact that occurs when people are having a completely platonic conversation. While eye contact by itself is likely not a good indicator of consent, eye contact in combination with other nonverbal indicators is likely one way to indicate that someone is into what is occurring. This must be taken within cultural context, however, as the participants in this study were raised in the Americas. This means that messages and meaning behind eye contact are within those cultural contexts and thus within those cultural sexual scripts.

Another aspect of eye contact to consider is soul gazing. Soul gazing is a prolonged period of eye contact between partners that is, frequently, intended to increase intimacy. If one googles "soul gazing," a variety of articles appear, including discussions of soul gazing as a part of tantric sex or generally about the emotional connection that comes through this kind of eye contact. Thus, increased eye contact before, during, and after sex may increase emotional connectedness between partners. Participants in this study associated increased emotional connection with their partners to an increased awareness of their partners. This increased awareness connected to higher levels of understanding of how the partner communicates. Thus, eye contact may assist in reaching greater levels of understanding of one's partners nonverbal consent cues. This deeper and prolonged eye contact can also be differentiated from eye contact during a platonic discussion. A stark demonstration of this comes from experiencing a platonic conversation with someone that suddenly shifts due to the level of eye contact that occurs. One can imagine engaging in a regular conversation with a peer and suddenly

realizing that the other person is gazing into one's eyes and then realizing that one is not looking away. Alternatively, one may have an involuntary reaction to look away when the eye contact shifts. When thinking about the situation with mutual gazing, one may determine that the eye contact may minimally indicate interest between parties and is minimally invasive as a behavior that indicates this interest.

Inviting someone into a bedroom or other private space was discussed as a nonverbal behavior. Jozkowski and Peterson (2014) included this behavior under "removal behaviors" (p. 640) in their Consent to Sex Scale. While an invitation to a bedroom or other private space can be done verbally, in the current study it was presented in the context of guiding someone to the space or gesturing an invitation. This behavior, if not conducted forcefully, is likely to be a minimally invasive way to indicate interest in a sexual context. If someone were to pull someone toward a bedroom or other private space, however, this might be more invasive. Similar to eye contact, participants provided contexts for when an invitation to a bedroom might not be an indication of consent. For instance, participants discussed living situations as college students and noted that often the bedroom is the only reasonable option for anything from studying to watching a movie. Knowing that there are nonsexual reasons to invite someone into a bedroom is important. A frequent comment after hearing about a sexual assault allegation is "Well, they did invite that person into their bedroom," or "Well, they did go in the bedroom." Making a blanket assumption that a bedroom invitation indicates interest in sex can be damaging in these situations. Alternatively, guiding someone into a bedroom or other private space after some form of sexual contact has begun, such as

making out, was, according to participants, more likely to communicate that the inviter was into sex. This makes sense, as a more private space may allow some to feel more comfortable without clothes or engaging in behaviors that American society deems to be private in nature, in line with cultural sexual scripts. If someone is going through a sexual progression, the private space allows for more advanced sexual activity in which people may be less willing to engage in public.

Participants indicated that people may prefer to remove their own clothing in private. Participants indicated that this nonverbal behavior could communicate a wide range of things, from needing to change clothes to being hot to wanting to snuggle naked to sex. Given the range of meanings of this nonverbal behavior, it is likely that this behavior would need to be paired with some other nonverbal indicator to count as a part of consent communication. Hickman and Muehlenhard (1999) combined removing one's partner's clothes with removing one's own clothing. Specifically, they used the following language in their quantitative study: "you help her/him undress you" and "she/he helps you undress her/him" (p. 264). Beres et al. (2004) used similar language in their study. Jozkowski and Peterson (2014) included unzipping one's own pants but did not take that further in their Consent to Sex Scale. This lack of simple removal of one's clothing as a standalone concept in these studies reinforces that this behavior may be a poor indicator of sexual consent on its own. Given the level of exposure that comes from removing one's clothing, including potential genital exposure, this behavior runs the risk of causing offense to the viewing party, making this behavior moderately to significantly

invasive. Overall, this behavior should be conducted only when one knows one's partner is okay with the behavior.

Similar to removal of one's clothing, participants provided many contexts for when kissing is and is not an indicator that someone is into sex. Kissing is also limited to communicating consent by the acting party and has the potential, like other behaviors listed in the "nonverbal yes" section above, to be an assault if the recipient is not into kissing when it happens, making it a significantly invasive way to indicate being into sex. Hickman and Muehlenhard (1999) and Beres et al. (2004) cited reciprocation of kissing but not kissing alone as a consent indicator. Furthermore, these researchers, along with Hall (1998) and Jozkowski and Peterson (2014), discussed only nonspecific types of kissing. Participants in the current study provided context for specific types of kissing. Cheek or mouth kissing, with no tongue, was generally considered not to be an indicator that someone is into sex. Escalated kissing behavior, deep tongue kissing, or more "intimate" kisses were deemed to be potential indicators that someone was into sex, but this could also just be an indication that someone was into making out. Participants who stated that any of these types of kissing were not necessarily indicators that someone was into sex indicated that sexual activity that was headed toward sex usually starts with kissing. This indicates that kissing likely plays a key role in the early stages of the progression to sex. The next stage of kissing mentioned by participants was body kisses below the neck. Specifically, one participant indicated that, if his partner kissed his body, he considered that as an indication that the partner was into having sex. The type of kisses clearly has an impact on the degree to which the kissing behavior

indicates that the acting party is into sex. This is just one more way that context appears in these nonverbal behaviors.

Genital stimulation is another nonverbal indicator for which participants provided context. Genital stimulation is a type of body touch that is generally considered more invasive than other forms of body touches. This touching of parts of the body that the American culture typically deems to be private may be why prior studies appear to cite this only in vague terms that may not even include genital touch. Hall (1998) talked about intimate touching, while Beres et al. (2004) mentioned only fondling. Both intimate touch and fondling could also mean touching of the breasts and/or buttocks. Jozkowski and Peterson (2014) at least placed this touching in the context of the genital area by providing the survey item "I would move my partner's hands to my pants or lower body" (p. 639) in their Consent to Sex Scale. Unfortunately, this leaves things open for interpretation. Some participants in the current study similarly made vague statements but others were clearer. Unlike general body touch, genital stimulation was given more context by participants. Specifically, one participant differentiated between clitoral stimulation and digital penetration, indicating that clitoral stimulation is less likely than digital penetration to indicate intended penile penetration by the initiating party. Another challenge with perceptions on whether genital stimulation indicates that someone is into sex is where someone draws the line of what sex is. For some participants, they identified genital stimulation as an indicator that someone is into sex under the context that "sex" is penile penetration of female genitals or an anus. This would be a pre-indicator that someone is consenting to sex. For those who perceive the

genital stimulation to be sex in and of itself, this would mean that the acting party is indicating consent for sex because they are performing sex. For instance, if someone began stimulating another person's genitals with their mouth and considered this to be sex, in the absence of force, coercion, and incapacitation, this would be showing that they were into sex by engaging in oral sex. Ideally, sexual consent indicators would come before engaging in the sexual act. Overall, this is an extremely invasive way to indicate that one is into sex.

The last two nonverbal indicators discussed in this study were silence and lack of resistance. Silence was discussed minimally as a point of question for participants. Many indicated that silence by the partner might be an indication that something was wrong, but others noted that some people are just quiet and, in those cases, silence would not be a red flag. Many participants struggled with the concept that partners could be silent during sex as they were verbose and silence would be disturbing to them. Others shared that silence may be a moment when those engaging in sex were being intimate and looking into each other's eyes. Ultimately, silence was a gray area for participants and was largely contextually, dependent on the people engaging in the sexual interaction. Given this individualized lens on silence, silence likely should not be relied on as a valid indicator of sexual consent. This is supported by its lack of presence in prior consent research (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014).

An even grayer area discussed extensively by participants was lack of resistance. This behavior was discussed extensively by previous researchers (Beres et al., 2004;

Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). It was clear in watching participants' facial expressions and listening to them openly process this behavior that they were very unsure about lack of resistance. For those who talked about lack of resistance as a positive indicator of consent, the language was typically something like "they allow it to happen." The assumption inherent in stating that the recipient is allowing something to happen is that the recipient has some kind of control over the situation. Similar language has been used in prior studies. Jozkowski and Peterson (2014) presented the item "I would just let it happen or I would not say no" (p. 910). Jozkowski and Peterson (2014) used multiple similar statements in their Consent to Sex Scale, such as, "I would let my partner start sexual behavior and not tell him/her to stop. . . . I would not resist my partner's attempts for sexual activity. . . . I would let the sexual activity progress to the point of intercourse" (p. 639). Studies by Hickman and Muehlenhard (1999) and Beres et al. (2004) similarly framed lack of resistance in this permissive context. The framing of these statements makes the assumption that the recipient is willing and feels safe to articulate not wanting something to happen. Layder (2009) discussed some of these dynamics in his book on power and intimacy. He wrote that personal styles and relationship types influence the level of communication in a couple. He indicated a variety of reasons why communication fails in these relationships. It would seem that this communication challenge would translate directly to sexual interactions in a couple. If there are communication issues and a lessening of intimacy, it seems questionable to rely on a lack of information or a lack of resistance to make the determination that the

other person is fine with actions initiated by the other person. In these cases, looking for additional nonverbal cues would be important.

The concept of looking for additional nonverbal cues was articulated by participants. They indicated that, if their partner stopped reciprocating or was not doing anything, they would want to clarify the situation. Some shared that looking at the person's facial expression or examining what was happening would be helpful in understanding whether the person was into the sexual contact. In the scenario, if Shawn were to stimulate PJ's genitals and PJ were to "allow it" and was just standing there, the participants concluded that this would not be an indication that PJ was into what was happening. If Shawn were to stimulate PJ's genitals and PJ were to "allow it" while looking into Shawn's eyes, breathing heavily, and pushing into Shawn or positioning to provide greater access to PJ's genitals, that would be an indicator that PJ was good with the genital stimulation.

When the participants discussed lack of resistance in the context of "allowing" something to happen, they had a positive outlook on the behavior, even when some indicated that they would want more clarification. Other participants used different language when discussing lack of resistance. In one of the focus groups, the participants had an extensive conversation about the difference between "freezing" and "hesitation" when talking about PJ's behavior in the complex scenario. When lack of resistance was put into that language, the participants expressed concern about the behavior. If one of the partners froze or was hesitant, the participants were much more inclined to indicate a need for a check-in by the acting party.

When discussing lack of resistance as a nonverbal indicator of sexual consent, it is vital to understand how people define this behavior. If people are counting on lack of resistance to indicate that someone is into sex, it is important to know how they describe lack of resistance. Furthermore, to make sure that they understand lack of resistance as a nonverbal indicator of sexual consent, it is important to recognize power assumptions that are made about the parties who are involved in the sexual encounter.

Nonverbal indicators summary. Sex and communication are social activities outlined in sexual script theory. Due to the social nature of these activities, context is critical in understanding what is happening in sexual communication. While participants described many behaviors in the affirmative, contextual elements should be considered when determining whether a particular nonverbal behavior indicates interest in or consent for sex. Some basic contextual elements that should be applied across the board to allow for any of these behaviors to be considered consent are the lack of the presence of force, coercion, or incapacitation and confirmation that the behavior is occurring in a sexual context. When placed in this context, the strongest indicators cited by participants as nonverbal indicators that someone is into sex were nodding, display or use of contraception, positioning, displaying one's genitals, guiding into position, assertiveness and initiation, continuing action, removing another's clothing, reciprocation, escalation, continuing action, and genital stimulation (Table 4). Other behaviors that called for additional context to be considered nonverbal indicators of consent were sex noises and/or heavy breathing, arousal, touching the body, drawing in/embracing, invitation into a bedroom or other private space, removal of one's own clothing, kissing, and

genital stimulation. The weakest nonverbal indicators discussed in the study were arousal, eye contact, kissing, silence, and lack of resistance. Many of the behaviors that participants indicated that showed that a person was into sex had to be paired or a part of a general sexual progression in order to add up to consent.

In addition to context and potential pairing of nonverbal behaviors, the level of invasiveness of these behaviors should be considered. Figure 1 is a visual representation of the cross between invasiveness and strength of the nonverbal indicator. The figure provides context for nonverbal consent behaviors as they relate to level of invasiveness and strength as an indicator of consent. Items in the upper right quadrant of the figure are high in strength as a nonverbal indicator of consent and minimal in the level of invasiveness. Despite placement in the upper right quadrant, these behaviors should not be unilaterally used as indicators of consent. These nonverbal indicators cannot mean anything if there is a presence of force, coercion, or incapacitation; context matters. Items in the lower left quadrant of the figure are low in strength and moderate to significant in invasiveness and thus likely should not be relied on as indicators of nonverbal consent in any context. Other behaviors should be considered more extensively within the context of the situation. Items below the horizontal line should probably be paired with other indicators of consent in order to be appropriately understood and interpreted. While those behaviors left of the vertical line should be

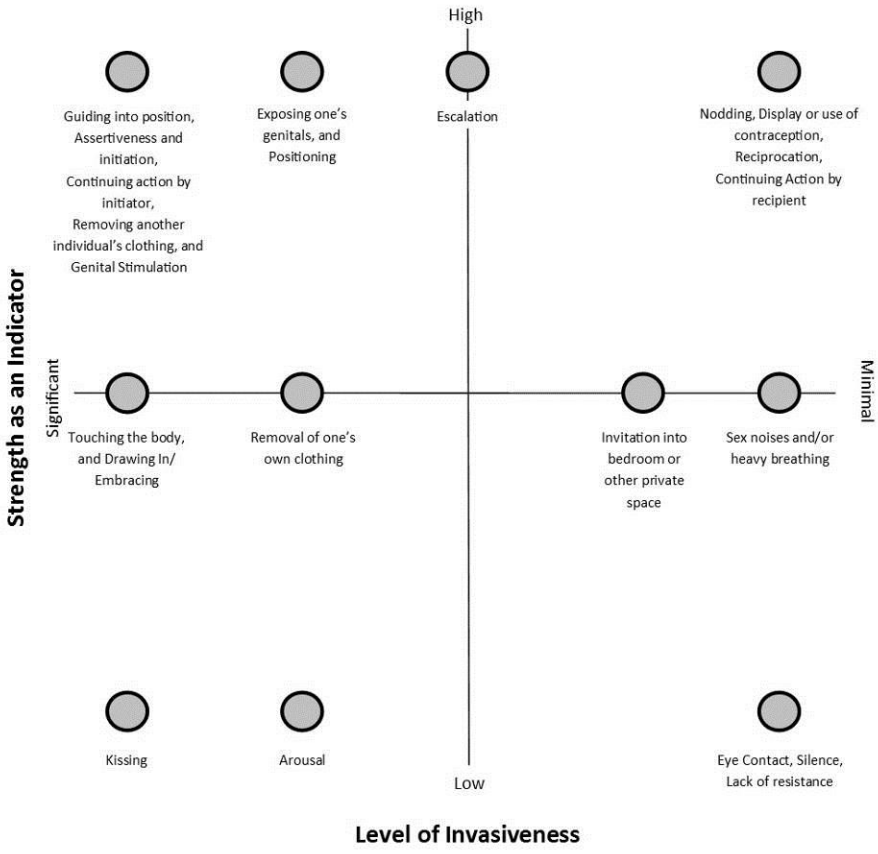

Figure 1. Utility of nonverbal consent behaviors.

engaged in with caution as if they are unwanted, the acting party jeopardizes assaulting the partner in an attempt to communicate consent.

Simple and Complex Nonverbal Indicators of Consent

Asking participants to write fictional scenarios involving a consensual sexual interaction between two parties that results in sex provided another avenue for participants to express what nonverbal indicators indicated to them that someone is into sex. The simple and complex scenarios that participants provided during their interviews

assisted in reinforcing identified nonverbal consent indicators that participants disclosed during their interviews and were discussed above (Table 3). Outside of these externally perceivable indicators, participants included aspects of internal consent and other internal feelings. For both written scenarios, participants included similar externally perceivable nonverbal behaviors that indicated that the sexual partners were into the sex that was occurring. One distinction between the simple and complex scenarios was that in the complex scenarios there were often conflicting messages by one or both of the sexual partners. These externally conflicting messages were mirrored by the internal feelings of the sexual partners.

Participants perceived the simple sexual situation to be a situation in which both involved parties want to actively engage in sex, feel right about engaging in sex, and send only affirmative nonverbal messages that they want to engage in sex. Furthermore, in these simple scenarios, the externally perceivable behaviors are consenting behaviors because the internal feelings of the participants are clear. This is consistent with interaction effects found by Jozkowski, Sanders, et al. (2014) between their Internal Consent Scale (want and desire of specific sexual interactions) and External Consent Scale (externally perceivable behaviors in a sexual situation). In contrast, the participants perceived that a complex situation involves potential internal struggles about whether to engage in sex, feelings of nervousness or fear, and conflicting external nonverbal messages about whether they want to engage in sex. In the simple consensual scenarios, sex happens and the parties are fine when all is said and done. In the complex sexual scenarios, sex happens with an increased level of communication between the parties, in

some cases a slower approach, and the parties are fine when all is said and done if appropriate care was taken to ensure that both were on the same page.

In the male focus group, one participant perceived the progression from the simple scenario to the complex scenario, which included a gray area, to be headed in the direction of a third scenario, in which consent was likely not present. The complex scenario appears to be the gray space between clear consent and clear non-consent. Ultimately, in the distinction between a simple consensual nonverbal sexual interaction and a complex consensual nonverbal sexual interaction, the positive nonverbal indicators are the same but placed in different contexts.

Messages Received

As sexual interactions are influenced by cultural sexual scenarios, it is important to understand what messages students receive about sex. In this study it was clear that the predominant message that participants received about sex was that it should not be done before marriage and could result in problems, including STDs, infections, or unwanted pregnancy. Pruitt (2007) reported an extensive study conducted with Pat Goodson that led them to find that abstinence until marriage education did not result in adolescents abstaining. According to that study, these programs, in their pure form, completely ignore adolescents who act against the abstinence directive. The experiences of the participants in the current study indicated that, despite Pruitt and Goodson's work, abstinence until marriage education is still in use a decade later and they have ignored the directive. Despite these abstinence messages, these sexually active participants also received messages that sex could feel good, was a way to engage in intimacy with a

partner, and might not be the nightmare that many of the adults in their lives considered it to be.

On the other end of the spectrum were unrealistic or false messages that participants received from friends, the media, and pornography. For some participants, media and pornography set up false expectations of what sex would be like and what people enjoy in a sexual situation. This was particularly relevant for male participants who learned about sex through pornography and had to reframe their understanding of sex when engaging with female partners.

Given the focus on the evils of sex and media messaging, it is not surprising that there were limited to no messages given to these participants about consent. For those who did receive messages about consent, details were limited. There were messages that boys should not rape girls. There were messages that consent should happen, but detailed information about what behaviors might indicate consent was rare. One participant recalled watching videos by sex educator Laci Green. This participant likely received detailed consent education, as Green discusses a variety of aspects of consent and provides demonstrations of how to verbally ask for and indicate that one is into sex. Green provides minimal information about nonverbal consent through noises and facial expressions as she demonstrates what a yes may look like. Other than this education from Green, there were no other references to messages about nonverbal consent.

Implications for Higher Education

The implications of this study for higher education are extensive. Understanding nonverbal consent and what messages students have received about sex can assist with

prevention education, policy development, and policy enforcement. This section addresses the following: considerations in education and enforcement based on the identified nonverbal indicators, ways in which higher education may fill sex education gaps regarding consent, existing media barriers to education, the influence of intimacy and emotion on the sexual experiences of students, verbal sexual communication, the challenges of the existing framework of non-consent, and general recommendations for practitioners.

Considerations for Identified Nonverbal Indicators

While participants identified specific nonverbal behaviors that may be indicators of sexual consent, educating students on these indicators and assessing these indicators when a complaint is filed may be challenging. A variety of things must be considered when discussing these nonverbal indicators in an educational setting, such as context, social stigmas around sex discussions, and how well people are able to recount a sexual exchange after the fact. The following includes discussion of a variety of the nonverbal behaviors discussed in the study and considerations that should be taken when introducing or addressing them in higher education.

The first nonverbal behaviors discussed in this chapter were sex noises and heavy breathing. These behaviors were categorized as minimally invasive and only moderate-level indicators. Sex noises may be particularly challenging to incorporate into discussion and enforcement of affirmative consent. If the audience is mature enough to go in depth about what sex noises may sound like and how to interpret them, there may be some opportunity for significant learning. This type of sound analysis and discussion

may be more appropriate in an academic classroom protected by curricular decisions, as a student affairs program discussing sex noises is more likely to be admonished as a program promoting pornography. In either setting, a discussion may be held about the challenges of relying explicitly on these noises, particularly if the person making the sexual noises is a new or unfamiliar partner.

In the context of a complaint resolution, sex noises are problematic in describing the noise in question. One nonsexual example would be that a person may be able to describe touching a doorknob by explaining where the doorknob was touched, how much pressure was applied when the doorknob was touched, or how warm or cold the doorknob was perceived to be. Describing the specific sound made by the door when opened, however, may be more difficult to do in a way that others clearly understand. If an accused student relies on the belief that the partner was making positive sex noises as the sole indicator of sexual consent, this is likely to be problematic.

Another consideration for higher education is that the majority of the nonverbal sexual consent indicators identified by these participants require some form of physical touch, making them highly invasive forms of consent communication. This means that, in order to communicate consent, the acting party may violate the recipient. Ideally, people would know that consent exists before making physical contact with another person or even exposing genitals to another person, which does not require physical contact. From an educational standpoint, people should not be encouraged to try something to show that they are consenting and see how it goes with the person with whom they are engaged. This may be one reason educators have relied largely on

encouraging verbal consent. Relying on nonverbal indicators, which are least likely to cause potential offense to the recipient, someone could encourage those behaviors found in the upper right quadrant of Figure 1: nodding, display or use of contraception, reciprocation, and/or continuing action. While reciprocation potentially means that the other party would have had to engage first, which may mean physical contact, there are ways to initiate without physical contact, as displayed through the 90/10 approach explained in the movie *Hitched*. In the 90/10 method, the acting party leans 90% of the way in for a kiss, ideally prompting the other person to come the other 10% to make contact. In this situation, the lean-in is the nonverbal invitation for a kiss. This at least provides less likelihood of problems but could still present outcomes of harassment if done repeatedly with someone who is not receptive.

Understanding these acting party indicators of nonverbal consent, found above the horizontal line in Figure 1, may be more helpful for those who are investigating and resolving allegations of sexual assault based on affirmative consent policies that allow for nonverbal communication. In this context, assuming that force, coercion, and incapacitation have been eliminated, the decision makers could review the discussed nonverbal behaviors and determine, to the best of the parties' recollection, whether those indicators were present. The participants in this study described some of those behaviors as stronger indicators than others. For instance, reciprocation or escalation at later stages of the sexual encounter (found above the horizontal line) may be stronger indicators than kissing or eye contact (found below the horizontal line). However, decisions makers can never lose sight of context or the reasonable-person standard. Some decision makers

have requested explicit rubrics in order to make these decisions easier. Unfortunately, establishing that kind of rubric would be anything but a simple and straightforward task. The level of context that would be required for this rubric would be extremely high and likely behaviors would have to be weighted accordingly. Figure 1 presents a baseline rubric that may at least provide a starting point for decision makers who can then put behaviors into context.

Another nonverbal behavior requiring attention by people in higher education is lack of resistance, found in the lower right quadrant of Figure 1. It is important for educators to be aware of the language that they use when talking about this behavior, specifically, paying attention to and discussing the differences and power aspects of "allowing" some sexual contact to occur versus freezing. Previous research indicating lack of resistance as a form of sexual consent is written from this power-held viewpoint, where the recipient is "allowing" the behavior (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). It is important in any sexual situation for partners to be aware of one another and to be able to determine which form of lack of resistance may be happening. While some offensive contact may have occurred, this may assist in gauging when further communication is needed. This may assist those on the receiving end of sexual contact to understand when they truly gave affirmative consent and when they did not. This is likely more important in that those who engage in predatory sexual assault are likely not concerned about whether they have affirmative consent; in these cases, this may assist survivors and survivor supporters to know when the boundary was crossed.

These uses of language may also assist decision makers in determining whether affirmative consent was present. Asking questions regarding how the individuals perceived the behavior or lack of behavior may assist in determining whether there was affirmative consent. If the accused indicates that a complainant "allowed" certain types of sexual contact, further questions should be asked. These questions should center on other nonverbal indicators that were present, as these were some of the contextual pieces provided by participants. They might ask about eye contact, facial expression, reciprocation, and escalation in combination with the lack of resistance in order to understand the greater context. They should ask these questions to all parties involved. This may assist in understanding whether a reasonable person would have recognized the lack of resistance as "allowing" or "freezing." The participants in this study indicated that inaction by the partner warrants some form of check-in. If this check-in is absent and/or there were no additional indicators to demonstrate that the recipient of the behavior acquiesced, that should raise a red flag for the decision makers.

Filling in the Information Gaps

Most participants in this study had not received education on consent, although most appeared to have received education on abstinence before marriage, as described by Pruitt (2007). This means that these participants had received minimal information about cultural scenarios within the sexual script framework. The cultural scenarios that they received came mostly from friends and the media, including pornography. Within the scope of higher education, this means that college and university personnel may need to fill in the consent information gaps, since without some form of cultural scenario,

students are left with interpersonal and intrapsychic scripts. This is potentially problematic in that people whose first experience with a partner is an assault, with no cultural scenario for comparing the interaction, will build their sexual scripts based on this interpersonal script controlled by this abusive partner. This may lead to the conclusion that abusive sexual situations are normal. Intrapsychic scripts, the scripts of fantasy, may influence how the person perceives this formed interpersonal script, but such scripts are often not played out in reality.

Another consideration regarding filling in these gaps is that, while many institutions of higher education in the United States have adopted affirmative consent policies and likely are educating students on what those policies mean, some of these institutions may not be going into detail about consent beyond asking and responding verbally. If institutions of higher education are to include and maintain affirmative consent policies that allow for nonverbal communication, more discussion on these topics with students must occur to provide cultural scenarios for these students to fill in their sexual scripts.

It was clear that the participants in this study had not considered or discussed elements of nonverbal consent; despite being sexually active, most were challenged to articulate what showed that they or someone else were into sex. Participants in focus groups more easily identified behaviors that they saw reflected in the scenarios but did not go above and beyond those behaviors when given the opportunity to provide more thoughts on consent. Furthermore, assisting students with similar sexual education backgrounds as these participants to talk comfortably about sex, their body parts, and

sexual communication may achieve a deeper understanding of healthy and affirmative sexual interactions. This can apply even to those who choose to abstain until marriage, as positive sexual communication is important in that context as well. Educators should speak to this concern, as audiences may be lost on the assumption that everyone is engaging in premarital sex. This may assist in respecting the values of those who typically tune out on these conversations. Table 4 and Figure 1 may be helpful starting points for educators. The consent scenarios in Appendices M and N may be helpful for facilitating discussion with students.

Higher education officials should make efforts to counter the fear messages to which students have been exposed or interpersonal scripts that were developed without cultural context. This includes assisting students in understanding what constitutes a healthy, considerate sexual interaction. It is also important to recognize that people engage in sex in a variety of ways with a variety of partners. While some of the participants acknowledged the existence of sex between same-sex partners, most focused on heteronormative perspectives and a gendered binary. This suggests that the sex education that these students received was limited to a heteronormative and binary context, reinforcing traditional cultural sexual scripts. It was difficult for those who recognized that sex went beyond this context to define sex outside of their primary lens. If all examples of sexual interactions are heteronormative, people may wonder whether the same concepts apply to sexual interactions that do not fit this context. This also means that those who do not fit the heteronormative and/or nonbinary frameworks may also be functioning without the cultural scenario aspects of sexual scripts. This may

produce the same cited concerns when individuals have to rely solely on interpersonal and intrapsychic scripts.

Media Barriers to Teaching Affirmative Consent

In addition to filling gaps in the education about sex that students have received, higher education may need to counter messages in the media, including pornography, that have formed students' cultural scenarios. Many participants spoke about being exposed to pornography at an early age; in the digital age, they have access to a wide array of pornography depicting all kinds of sex. The participants who spoke about their exposure to pornography indicated that what they had seen had set unrealistic expectations of what sex would be like for them with a partner about whom they cared. One participant talked about the process of unlearning what had come from pornography through college courses on sex and actively seeking other resources. Other students may not be as motivated to unlearn negative messages, which puts a burden on higher education to engage students in dialogue about healthy sex practices.

Pornography is not the only place students have received or may receive messages that contradict expectations for students with affirmative consent policies. The television show "The Bachelorette" presents one female to a large group of men to date over the course of many weeks, sometimes resulting in engagement. Each week, men are eliminated as they are deemed incompatible by the bachelorette. On a recent episode, one man asked to kiss the bachelorette. This was a clear, positive demonstration of someone seeking consent prior to engaging in a form of sexual contact. The bachelorette was not pleased to have been asked, said that it had made the interaction awkward, and

told the man that she was used to people just "going in" for the kiss. It was clear that she preferred an assertive man who takes what he wants in terms of kissing. This response is not uncommon and is in line with traditional sexual scripts. Many years ago I heard a presentation by a speaker who encourages people to ask before they kiss. Two young female college students near me commented that they did not want a man to ask, they wanted him to "just go in for the kiss." This cultural scenario is extremely counteractive to affirmative consent. It is possible that this concern is somewhat generational, as those two young women are likely about the same age now as the bachelorette in the aforementioned show. Even if this idea is generational, it calls for vigilance. Students should be engaged in whatever sexual role they play to accept that a request can be a part of a positive sexual encounter. It is reassuring that many participants in the study expressed a preference for verbal consent for sexual activity. In addition to wanting verbal consent, they stated that people should clearly ask and articulate what they want sexually from their partners. This appears to be a positive move away from earlier studies in which nonverbal communication was the primary mechanism for indication of consent (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999).

Verbal Sexual Communication

Despite the focus of this study on nonverbal consent, communication of verbal consent was a significant theme that emerged from the data. Early in the conversations it was clear that I should ask whether they believed that a consensual sexual interaction could happen between two parties without the use of verbal communication. Given most of the research to date (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999)

indicating that most sexual communication happens nonverbally, this question was not in the original protocol. While many participants maintained that a consensual sexual exchange could occur without verbal communication, most stated that communication was better with talking. If there was any level of question about whether one was into sex, the participants agreed that asking was the clearest and cleanest way to ensure that everyone was on the same page. Participants in the all of the focus groups were asked what was missing from the scenarios; every group indicated that some kind of verbal exchange should have occurred and remarked that it was strange that there was only silence.

This focus on verbal communication is good news for higher education. This emphasis suggests that Antioch College was well ahead of their time in the 1990s when they instituted their verbal only affirmative consent policy. Despite the backlash and claims that students could not be expected to engage in verbal consent practices, it appears that the position may not be farfetched. Furthermore, it appears that the sexual script cultural scenarios for these student participants includes the use of verbal communication. Jozkowski (2015) wrote that public health concerns could be shifted through policy and education, and that this should happen with sexual communication. If these participants, most coming from very sexually conservative communities, were able to focus on the need for verbal exchanges in sexual activity, then perhaps these policies are having an effect. Because the participants in the male focus group spoke extensively about the education that they had received about affirmative consent, they agreed that it was reasonable to require students to seek verbal affirmative consent when engaging in

sexual interactions. One participant indicated that getting a verbal yes was easy enough, so why not ask? It may be time for institutions of higher education to consider limiting their affirmative consent policies to verbal consent.

Intimacy and Emotions

As someone who educates students regarding consent, it was striking to me that student definitions of sex started with the emotional and intimacy aspects of sex versus defining sex as specific physical acts. Participants described sex as based on "emotional connection" (Bre, female, focus group) or the level of trust between partners. Much of this may have had to do with the way the initial question was worded: "What is sex to you?" It seemed that many interpreted this to mean "What does sex mean to you?" Conversations about sex when I was younger centered on being with the right person and truly loving that person before engaging in any kind of sexual interaction. Alternatively, sex was discussed in terms of physical pleasure. This is consistent with what participants shared about what sex was to them. As someone who engages in sex education, I have stayed largely on the topic of the physical interactions and the communication that occurs during the sexual interaction. I talk occasionally about care for one's partner and paying attention to how the partner is doing as part of this communication. I also discuss the emotional connection that may be perceived based on hormones that are triggered by sex. However, I have generally steered away from the emotional and intimacy perspectives on sex. I do so because I am trying not to place any judgments on people who are engaging in sex for purely physical pleasure purposes. Based on the conversations with these participants, I am reconsidering this stance.

Sex educators in higher education should consider having discussions on this topic of emotion and intimacy. Perhaps some are already doing so. There may be ways to help students to have a deeper connection to the content if the emotional component of sex is addressed. I do not suggest that this happen in a typical consent 101 presentation, but perhaps marketing specific programs that talk about sex, emotions, and intimacy would draw a different group.

A brief Google search on "college sex intimacy" led first to the College Student's Guide to Safe and Healthy Intimate Relationships (Beltran & Yoon, 2017). The page starts with recommended questions to ask of a sexual partner. While many of the questions posed at the beginning of the resource were about sexual history and sexually transmitted infection testing, they encouraged readers to ask, "How do you feel about sex?" (Beltran & Yoon, 2017, para. 3, Question 4). This question contained additional context about how the question could assist in making informed decisions about whether to engage in sexual contact. Unfortunately, the next few search results appeared to be pornography; I was unwilling to click on any of the links to verify that. Students who are seeking information about emotions and intimacy as they related to sex may be challenged to find this information. A refined search may be necessary. If institutions of higher education can find ways to incorporate these conversations into sex education activities, this may assist in reaching students who feel a greater sense of emotional connection to their sexual interactions.

Impacts of Relationship Length

Relationship length may have an impact on prevention education in the areas of sexual consent. One of these impacts connects with the discussion about emotions and intimacy above. It may be likely that discussions of intimacy and emotions will address longer-term relationships. This incorporation of discussions focusing on sexual interactions between persons who have been in a longer-term relationship versus focusing on one-night hookups or loss of virginity would address a comment made by one of the participants in the male focus group about doing more education about sex in committed relationships. This focus on longer-term relationships may also address a finding by Beres (2014) that some people in committed relationships contend that "consent does not apply to their relationships" (p. 383). Specifically, Beres found that some people believed that consent was implied by the nature of being in the relationship or that there was no need to ask for consent in their interactions. Given that many affirmative consent policies include statements such as "the existence of a prior relationship or prior sexual activity does not automatically ensure consent for current or future sexual contact" (Texas A&M University, 2017, § 24.1.6.), in combination with Beres's findings, it is important to inform students that there can be no implied consent, regardless of the type or length of the relationship.

It is still important for educators to focus on sexual interactions by people who may be engaging in shorter-term relationships that involve sexual contact. This is important in that participants in this study indicated that it is more difficult to say "no" to someone whom they do not know well. They also indicated that it is more difficult to

interpret behaviors by people whom they do not know well. These things in combination lead to the conclusion that it is more important to ensure that students understand what constitutes consent and that they take appropriate actions to ensure that they have consent from their partners. Given the need for discussions on both long-term and short-term relationships, it is important for consent educators to provide options for education on all lengths of relationships.

Challenges With Non-Consent

During both interviews and focus groups, participants cited knowing that someone was into sexual activity because the person was not saying "no" or was not resisting. This lens closely reflects how laws in most states talk about consent, which is that the presence of non-consent would make certain sexual activity a violation of the law (Table 1). This is also consistent with prior research, in that participants stated that lack of non-consent meant that consent was present (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). The absence of non-consent would make the sexual activity legally permissible and would fit within prior sexual script cultural scenarios. However, what is considered a "yes" in a non-consent framework and what is considered a "yes" in an affirmative consent framework are different (Figure 2). Figure 2 includes behaviors that fall between non-consent and affirmative consent that are considered differently in most laws (non-consent framework) and in many college and university policies (affirmative consent framework). Participants indicated that a non-consent framework indicates that there is still work to do in helping students understand

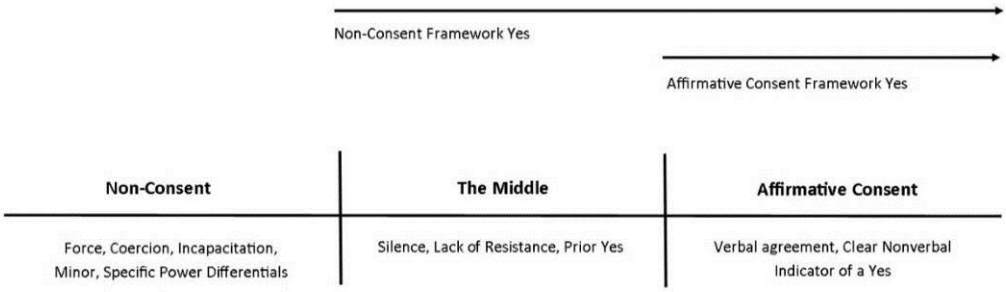

Figure 2. Spectrum of non-consent to affirmative consent.

what affirmative consent means and why it is helpful in a healthy sexual relationship. Ideally, this will help to shift sexual script cultural scenarios. Figure 2 illustrates what is considered a "yes" in non-consent and affirmative consent frameworks.

General Recommendations for Practitioners

A few key recommendations come out of this study. The first is to utilize research when engaging in policy development, training, and practice. While research on consent is still relatively new, there is guiding information in the literature that may help in developing policy and practice that connects with current cultural scenarios. This assists both in connecting more with current traditional-age college students and in understanding a reasonable person similarly situated.

Given the level of challenge cited by students in discussing the concept of consent, higher education practitioners are encouraged to engage students in dialogue through the use of questions that challenge and encourage them to think through these complex issues. Questions could include the following: (a) What is consent to you? (b) What would be a clear verbal or nonverbal yes? (c) What would be a clear verbal or

nonverbal no? (d) What verbal or nonverbal communication would be more ambiguous or confusing? (e) Do you believe that allowing someone to do something to you sexually is a way to communicate consent? (f) Do you believe that someone who "freezes" is communicating consent? (g) What is the difference between allowing someone to do something and freezing? and (h) How do you know which one of these behaviors is occurring if you are the initiating party?

Utilizing these questions may assist students in processing issues that they have never considered before. Furthermore, when utilizing these or like questions, practitioners are encouraged not to let students "get away with" vague answers. Students should be challenged to articulate fully what they mean. If a student says, "I would lower my hands to indicate that I was interested in sex," the following question should be "lower your hands to where?" or "what would you do with your hands?" All of this must be understood up front to be a part of an education on sexual communication.

Practitioners are encouraged to utilize Figure 1 as a rubric for both prevention education and decisions regarding sexual misconduct cases if nonverbal communication is allowed in the policy. This rubric provides a starting point for dialogue. For prevention education specialists, a focus on the upper right quadrant would be appropriate. More broadly, use of the top portion of the figure would be appropriate.

Implications for Future Research

There is currently very little research on sexual consent. While this study provides information that contributes to a growing body of knowledge on this topic, much more research is needed to give an adequate analysis of what consent entails.

Furthermore, due to the social nature of sex, research on consent must be ongoing, as cultural scripts change over time. If the participants in this study are representative of college students of the same ages, then cultural scripts may already be changing from the scripts that existed when earlier studies on this topic were conducted. The following are specific implications for future research: need for clarity of language, gaining deeper understanding on some of the behaviors, and going beyond participants who have had sex with someone of the opposite sex.

Need for Clarity of Language

Some participants in this study asked clarifying questions about specific nonverbal behaviors mentioned in questions. Specifically, when asked about silence, lack of resistance, and inviting someone into a bedroom, participants frequently asked for clarification of these terms. Absent further explanation of these terms, participants must devise their own definitions. The language used in previous studies on the lack of resistance came consistently from the point of reference of the person "allowing" the behavior (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014; Jozkowski, Sanders, et al., 2014). This makes an assumption that the person "allowing" the behavior has some level of control in the situation in order to "allow" things to happen. More exploration is needed regarding perceptions from the partner who is being "allowed" and how this "allowing" behavior is interpreted, as participants in this study differentiated between allowing behaviors to happen and freezing.

Another area that may need additional clarification is kissing. Participants in the current study made distinctions among types of kissing (mouth to mouth, mouth to body). While most participants indicated that kissing is likely to be a part of the sexual interaction, it was seen as a weak indicator of consent. Prior studies included agreement from participants that they would kiss a partner or return a partner's kiss (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski & Peterson, 2014) but there was no specification of the kind of kissing by the participants.

Another area with a lack of specification in prior research is fondling, caressing, and touching pants or the lower body. Without more precise definitions of these terms, researchers must rely on sharing cultural definitions of the terms with their participants. It is possible that these terms were defined more explicitly in the cited studies but it is difficult to determine this from the published articles (Beres et al., 2004; Hall, 1998; Hickman & Muehlenhard, 1999; Jozkowski, Peterson, et al., 2014). More explicit language may be useful in refining and understanding what constitutes consent. In the current study, some participants cited genital stimulation, which was explicitly absent from the former studies but was likely implied through the use of the terms fondle, caress, and placing a hand on pants. Being more specific and using the term *genital stimulation* may not be specific enough; a female participant in this study differentiated clitoral stimulation and digital penetrative stimulation. Instruments to measure this factor should be specific regarding types of stimulation.

Utilizing the data reported in this study, a quantitative instrument might include various levels of kissing: mouth kissing with no tongue, mouth kissing with tongue,

nongenital body kissing with no tongue, nongenital body kissing with tongue, genital kissing, and genital stimulation with tongue. Regarding touching that might occur "below the waist," one might use the terms genital touching with hands over clothes, genital touching with hands under clothes, rubbing genitals on parts of another's body through clothes, rubbing genitals on parts of another's body without clothes, and so forth. This level of detail could assist researchers in ensuring that the instrument is specific enough to reduce cultural scenario differences between researcher and participant that might arise from using more colloquial or vague terms.

Depth of Exploration

In addition to the need for clearer definitions of terms, the identified nonverbal behaviors warrant deeper discussion. Specifically, those behaviors that participants presented only in the affirmative and about which they were not specifically asked in this study should be investigated in more depth. These behaviors included sex noises and/or heavy breathing, nodding, display or use of contraception, arousal, exposing one's genitals, positioning, touching the body, guiding into position, assertiveness and initiation, drawing in/embracing, and continuing action. While these behaviors are a priority as participants were not asked to reflect on them in the same manner as other behaviors, a deeper inspection of all of the nonverbal behaviors discussed could be helpful in understanding exactly what participants mean when they talk about these behaviors.

Greater understanding of these nonverbal behaviors might be gained by giving more explicit instructions to participants when asking them to write sex scenarios. It

would be interesting to see what participants would write if they were told not to incorporate internal consent or internal emotions. While asked to provide detail, the participants in this study were limited in the level of detail in their scenarios. Having them explain the nonverbal behaviors in greater detail and having them focus solely on behaviors that would be observable by a sex partner might yield a deeper understanding of these behaviors.

It would be productive to help participants use clear and direct language when discussing or writing about sexual activity. Many participants used vague phrases when describing things such as physical touch. Helping participants to use direct language regarding genitals and other body parts might assist in understanding their interpretation of the behaviors when they cite them.

Going Beyond Opposite Sex Research

The last implication for research arising from this study is the need to go beyond a heterosexual and gender-binary framework. Some of the studies in the extant literature focus explicitly on persons who identify as lesbian or gay (Beres et al., 2004) and others have included a population that consisted of lesbian, gay, and heterosexual participants (Jozkowski, Sanders, et al., 2014). Researchers have also worked to de-gender existing instruments that are designed to assess consent indicators. Similar to the need addressed in the current study, it would be helpful to conduct an in-depth qualitative study including persons who have engaged in consensual sexual activity with one or more people of the same sex and/or persons who are transgender or nongender identified. While nonverbal indicators for these populations might be similar if not the same as the

behaviors identified in this study, it is important to ensure that the research is inclusive. This inclusiveness will assist in creating a broader opportunity to educate a greater percentage of students in institutions of higher education. This will also support arguments that research may apply to policy development and enforcement.

Conclusion

In the 1990s, Antioch College initiated higher education discussions on the topic of affirmative consent. These discussions have increased substantially in the past 6 years, after publication of the April 2011 Dear Colleague letter by the Department of Education. Furthermore, the requirement of institutions to publish a definition of consent in the relevant jurisdiction, found in VAWA, pushed institutions to move farther along this path to affirmative consent. This push was emphasized by California and New York when those states required institutions of higher education to have affirmative consent definitions (Appendices B and C).

Despite this move toward affirmative consent, the existing research on this topic is limited. One of the particular challenges of educating students about and enforcing affirmative consent policies has to do with nonverbal consent. While some affirmative consent policies allow for nonverbal communication to factor into affirmative consent communication, university educators, policy makers, and complaint decision makers must function from personal viewpoints and nationally published opinions, as there is little research on this topic. This study was designed to contribute to a body of researched understanding to move forward in an informed manner within this affirmative consent climate.

Using sexual script theory as an underlying conceptual framework, this study addressed four research questions:

1. What do current traditional-age college students believe to be external nonverbal indicators of consent between two adult individuals when there are no questions of incapacitation?

2. What do current traditional-age college students believe to be a simple and obvious indicator of nonverbal consent between two adult individuals when there are no questions of incapacitation?

3. What do current traditional-age college students believe to be complex indicators of nonverbal consent between two adult individuals when there are no questions of incapacitation?

4. What messages have current traditional-age college students received about what consent is?

The questions were addressed in a qualitative, phenomenological study involving individual interviews and focus groups. Participants in this phenomenological study were cis-gendered men and women, ages 18 to 24, enrolled in a 4-year public institution in the southwest, with reported mutually wanted sexual experience with one or more people of the opposite sex prior to participating in the study. Transcriptions of the interviews were made and data were unitized to identify unique concepts. Each concept was sorted into conceptual themes. These themes addressed the research questions and contained concepts that were not directly a part of the research questions.

The emergent themes covered a wide range of information. Within the context of Research Question 1, a variety of nonverbal behaviors that indicated consent were cited and discussed by participants (Table 4). Participants also mentioned nonverbal indicators that fit within the context of simple and complex consensual sexual interactions by writing sexual scenarios. The nonverbal indicators cited by the participants (Table 3) were similar to those identified by participants generally and in discussions about the simple and complex scenarios. The primary difference in the results between the simple and complex scenarios was the presence of confusing or mixed signals by one or more of the parties involved in the sexual interaction. Finally, participants provided information regarding what messages they had received regarding what constitutes consent. While aspects of physiology and anatomy were taught, most of the reported information was described as engendering fear of grave repercussions from participating in sex. Specific education on consent was minimal and generally focused on rape avoidance and non-consent.

Above and beyond the research questions, participants provided insight into the contextual nature of sex, reinforcing the social nature of the act as consistent with sexual script theory. Despite the focus on nonverbal indicators, participants expressed a desire for verbal communication in their sexual interactions. Other concepts were discussed, such as non-consent, personal anecdotes, and internal feelings and internal consent. The last emergent theme was the ongoing need for clarification and understanding of terms, such as lack of resistance.

These results may be utilized to gain insight into the topics investigated via the research questions. Regarding nonverbal consent indicators, it is clear that context affects whether a behavior should be considered an indicator of consent. Some nonverbal behaviors were stronger indicators than others. For instance, exposing one's genitals was considered a stronger indicator than mouth kissing. Some behaviors were considered to be more invasive than others. Specifically, some nonverbal indicators were deemed to require physical touch while others did not. Careful analysis of the language that students use to describe these behaviors is helpful in understanding the full meaning of each of these nonverbal cues. Furthermore, context provided the difference between simple and complex nonverbal scenarios. Specifically, confusing or mixed signals signified greater levels of complexity for these participants. The primary way that students learned about these nonverbal indicators was through personal experiences with sex; they received little or, in some cases, no education regarding what constitutes consent.

All of these concepts have implications for personnel in higher education, particularly for those engaged in prevention education, policy development, and enforcement. Those who work in these areas must understand how current students view sex to address their educational needs about sex. This includes understanding that current students may be open and invested in verbal communication in their sexual interactions. Educators should identify information gaps in order to assist in filling those gaps and combating negative messages presented by the media and in pornography.

Educators must be thoughtful about the language that they use to describe behaviors, particularly related to the concept of lack of resistance.

This consideration of language should be incorporated into future research. A study focused explicitly on concepts related to lack of resistance could be conducted to examine power expectations when people indicate "allowing" behaviors versus "freezing." This greater depth could be applied to many of the nonverbal cues cited by participants in this study. Inclusion of populations that do not identify with the gender binary and traditional heteronormative sexual scripts could be helpful in connecting to more students. While this study produced a wealth of data, ongoing research is needed to understand this social phenomenon. Personnel in higher education should carefully review the extant research to inform their practice and to provide the best and most meaningful education for the students whom they serve.

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APPENDIX A

DEFINITION OF TERMS

The term *dick pic* means a picture of one's exposed penis. The term is typically used in the context of sending a *dick pic* to another person through text message or application.

The term *incapacitation* means a state of impairment in which a person is unable to make informed decisions. Incapacitation can be caused by alcohol or other drugs, head injury, developmental disability, etc.

The term *making out* means kissing, kissing with tongue, fondling over clothes, and/or non-genital and non-anal fondling under clothes. This term is not meant to encompass individual kisses or minimally repeated kisses without tongue. The level of acceptable contact while *making out* may differ based on age, viewpoint on sex, etc.

The term *sext* means sending a sexually graphic image or message via text message or application.

The term *Snap* means sending an image through the application *Snapchat*. Images sent through *Snapchat* are promptly deleted by the application, providing the sense of security that the recipient is not allowed to save the image. Over time, individuals have figured out they are able to capture these photos, however, through the utilization of taking a screen shot of the image when it is on their phone.

The term *swipe right* means running one's finger across the screen of a cell phone from left to right. For general use swiping allows a user to navigate screens on their phone. In the Tinder application, users may *swipe right* to indicate they are interested in someone who has a profile on Tinder while swiping left indicates a lack of interest.

The term *traditionally aged college student* means students enrolled at an institution of higher education and who are between 18 and 24 years of age.

APPENDIX B

CALIFORNIA EDUCATIONAL CODE REGARDING

AFFIRMATIVE CONSENT

CHAPTER 16. Student Safety [67380 – 67386]

(Heading of Chapter 16 renumbered from Chapter 15.5 by Stats. 1993, Ch. 8, Sec. 9.)

67386.

(a) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking, as defined in the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1092(f)), involving a student, both on and off campus. The policy shall include all of the following:

(1) An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

(2) A policy that, in the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

(A) The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.

(B) The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

(3) A policy that the standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.

(4) A policy that, in the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

(A) The complainant was asleep or unconscious.

(B) The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.

€ The complainant was unable to communicate due to a mental or physical condition.

(b) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall adopt detailed and victim-centered policies and protocols regarding sexual assault, domestic violence, dating violence, and stalking involving a student that comport with best practices and current professional standards. At a minimum, the policies and protocols shall cover all of the following:

(1) A policy statement on how the institution will provide appropriate protections for the privacy of individuals involved, including confidentiality.

(2) Initial response by the institution's personnel to a report of an incident, including requirements specific to assisting the victim, providing information in writing about the importance of preserving evidence, and the identification and location of witnesses.

(3) Response to stranger and nonstranger sexual assault.

(4) The preliminary victim interview, including the development of a victim interview protocol, and a comprehensive followup victim interview, as appropriate.

(5) Contacting and interviewing the accused.

(6) Seeking the identification and location of witnesses.

(7) Providing written notification to the victim about the availability of, and contact information for, on- and off-campus resources and services, and coordination with law enforcement, as appropriate.

(8) Participation of victim advocates and other supporting people.

(9) Investigating allegations that alcohol or drugs were involved in the incident.

(10) Providing that an individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

(11) The role of the institutional staff supervision.

(12) A comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual assault, domestic violence, dating violence, and stalking cases.

(13) Procedures for confidential reporting by victims and third parties.

€ In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall, to the extent feasible, enter into memoranda of understanding, agreements, or collaborative partnerships with existing on-campus and community-based organizations, including rape crisis centers, to refer students for assistance or make services available to students, including

counseling, health, mental health, victim advocacy, and legal assistance, and including resources for the accused.

(d) In order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing boards of independent postsecondary institutions shall implement comprehensive prevention and outreach programs addressing sexual violence, domestic violence, dating violence, and stalking. A comprehensive prevention program shall include a range of prevention strategies, including, but not limited to, empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. Outreach programs shall be provided to make students aware of the institution's policy on sexual assault, domestic violence, dating violence, and stalking. At a minimum, an outreach program shall include a process for contacting and informing the student body, campus organizations, athletic programs, and student groups about the institution's overall sexual assault policy, the practical implications of an affirmative consent standard, and the rights and responsibilities of students under the policy.

€ Outreach programming shall be included as part of every incoming student's orientation.

(Amended by Stats. 2015, Ch. 303, Sec. 115. Effective January 1, 2016.)

APPENDIX C

NEW YORK EDUCATION LAW REGARDING AFFIRMATIVE CONSENT

§ 6441. Affirmative consent to sexual activity.

1. Every institution shall adopt the following definition of affirmative consent as part of its code of conduct: "Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity.

Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression."

2. Each institution's code of conduct shall reflect the following principles as guidance for the institution's community:

a. Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.

b. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

c. Consent may be initially given but withdrawn at any time.

d. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

e. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.

f. When consent is withdrawn or can no longer be given, sexual activity must stop.

APPENDIX D

GENERAL RECRUITMENT INFORMATION

GENERAL INFORMATION ABOUT STUDY

Howdy!

The following is some general information about a study being conduct by Kristen Harrell, Doctoral Student, College of Education. Kristen is studying college students' understanding of sexual interaction. Specifically, she is looking at what kind of behaviors show that someone is interested in or into sexual activity that is occurring. There are a few different ways that people can participate in the study if they are interested. The first is to have an individual interview. The second is to participate in a focus group with other students. Kristen is specifically looking for individuals who have had a mutually wanted sexual experience with one or more other individuals.

The information collected for this study is part of Kristen's dissertation process as a student. This information however, may be published to assist college administrators in policy development, education, and responses relating to potential sexual misconduct. No personally identifiable information would be contained in any public documents. The identity of anyone involved in the study will be kept private. Individuals who participate in the focus group will hear each other's perspectives that are communicated, however.

If you are interested in participating, Kristen will provide you with additional information about the study both via email and, if you choose to participate, at the time of your participation. If you are interested in participating, please contact Kristen at kristenh@studentlife.tamu.edu or 979.847.7272.

IRB NUMBER: IRB2016-0640D
IRB APPROVAL DATE: 10/27/2016
IRB EXPIRATION DATE: 10/15/2017

APPENDIX E

INTERVIEW RECRUITMENT INFORMATION

INDIVIDUAL INTERVIEW

Subject Line: Research Project

Howdy FIRST_NAME:

You have been selected as a potential participant to share your perspectives on sexual consent. Your viewpoint is important and could assist us in creating policy, education, and responses that best fit our population as we all work together to end sexual violence on our campus. We are working to have a better understanding of what students think about this vital issue.

I am specifically looking for individuals who have had a mutually wanted sexual experience with one or mor other individuals. If this is true for you, I was hoping you would be willing to participate in an individual interview related to this topic. The information collected through this interview will be confidential. You'll have an opportunity to provide your own pseudonym which would be used in any documents maintained for any length of time. You will also have a chance to review notes of the interview to make sure I've captured the information correctly.

Please consider taking an hour of your time to meet with me to discuss this important topic. If you are interested in participating, please contact me at kristenh@studentlife.tamu.edu or 979.847.7272.

Thank you for your time in advance.

Sincerely,

Kristen Harrell

Doctoral Student

College of Education

IRB NUMBER: I
IRB APPROVAL
IRB EXPIRATIC

APPENDIX F

FOCUS GROUP RECRUITMENT INFORMATION

CONSENT FORM – INDIVIDUAL INTERVIEW

Project Title: Nonverbal Indictors of Sexual Consent

You are invited to take part in a research study being conducted by Kristen Harrell, researcher from Texas A&M University. The information in this form is provided to he you decide whether to take part. If you decide to take part in the study, you will be asked sign this consent form. If you decide you do not want to participate, there will be no penal to you, and you will not lose any benefits you normally would have.

Why Is This Study Being Done?
The purpose of this study is to understand what college students think about consent.

Why Am I Being Asked To Be In This Study?
You are being asked to be in this study because you are a traditionally-aged college student wl has indicated you have experienced consensual sexual contact at some point.

How Many People Will Be Asked To Be In This Study?
Up to 100 people (participants) will be invited to participate in this study locally.

What Will I Be Asked To Do In This Study?
You will be asked to answer questions about what nonverbal consent is. Your participation in this study will last up to 90 minutes. The study includes one individual visit. There may be a brief follow-up discussion to clarify information. You will have a chance to review notes from your interview.

Are There Any Risks To Me?
The things that you will be doing are no more than risks than you would come across in everyd life. There is minimal risk of breach of privacy.

Will There Be Any Costs To Me?
Aside from your time, there are no costs for taking part in the study.

Will I Be Paid To Be In This Study?
You will not be paid for being in this study.

Will Information From This Study Be Kept Private?
Information about you will be kept confidential to the extent permitted or required by law. People who have access to your information include the Principal Investigator and research stuc personnel. Representatives of regulatory agencies such as the Office of Human Resear Protections (OHRP) and entities such as the Texas A&M University Human Research Protectic Program may access your records to make sure the study is being run correctly and th information is collected properly.

You will not be identified in any published document. Research records will be stored securel You will be asked for a preferred pseudonym. Information about you will be stored in passwo protected electronic files. This consent form will be filed securely in an office area.

IRB NUMBER:
IRB APPROVAL
IRB EXPIRATIO

APPENDIX G

NONVERBAL CONSENT INTERVIEW PROTOCOL

1. What is sex to you?
2. How did you learn about sex growing up?
    a. Who did you learn from?
        i. Movies?
        ii. Magazines?
        iii. Teachers?
        iv. Family?
3. What kind of things did you learn about sex from [PLACES WHERE MESSAGES CAME FROM, E.G. PARENTS, MEDIA, ETC.]?
4. When involved with your partner, how do you show you are into it?
5. How does your partner show they are into it?
6. How do you show you want to have sex?
7. How does your partner show they want to have sex?
8. *If the participant does not indicate non-verbal indicators*: If you're not using words, how do you and/or your partner show you are into having sex?
    a. If the following have not been mentioned: Do you believe _____ is a way to communicate you're into it? Explain.
        i. Kissing
        ii. Silence
        iii. Removing Clothing
        iv. Lack of Resistance
        v. Inviting someone into your bedroom
9. I asked this question earlier, but now that we've talked a little bit more about sex, can you think of any other ways you've learned about sex?
10. We've got some paper here, I'm going to ask you to write two sex stories for me.
    a. For the first one, think of a situation where interest in sex is communicated without speaking. What is the most clear and simple way that the individuals can communicate that they are into the sex?
    b. For the second one, what is a more confusing or complicated situation? What may be harder to understand? Still without them speaking.

APPENDIX H

NONVERBAL CONSENT FOCUS GROUP PROTOCOL

Start with simple scenarios. Repeat with complex scenarios:

1. Now that you have read the scenarios, what are you initial thoughts?
2. Do you believe these scenarios accurately reflect a situation where there is consent?
    a. Explain.
3. What, if anything, do you believe could or should be altered?
4. Do you believe these scenarios are useful in understanding consent?
5. As a group, please take the scenarios provided, or create your own to make the strongest and clearest scenario.

APPENDIX I

NONVERBAL CONSENT INTERVIEW PROTOCOL:

ADDITIONAL QUESTIONS

1b. Are there specific physical acts that you believe have to take place in order for it to be sex?

8.6. Do you believe that social media plays into or is a part of sexual communication? If so, in what ways?

11. Do you believe that a fully consensual sexual interaction can happen without a verbal exchange?

APPENDIX J

NONVERBAL CONSENT FOCUS GROUP PROTOCOL:

ADDITIONAL QUESTIONS

- In what ways does the context provided in the scenario impact whether you believe the interaction was mutually wanted?
- Do you believe a fully consensual sexual interaction can happen without a verbal exchange?
- What are your thoughts about lack of resistance? What does that communicate in a sexual interaction?
    - What else would need to be present for lack of resistance or silence to mean a yes or a no?
- How much attention do you believe someone should have to pay to their partner?
- For the complex scenario, if the participants believed it reflected a consensual interaction:
    - If Shawn had continued without checking-in, would the interaction have still be consensual?
    - If you were in Shawn's role, would you proceed?
- Any other thoughts on consent?

APPENDIX K

CONSENT FORM: INTERVIEW

CONSENT FORM – INDIVIDUAL INTERVIEW

Project Title: Nonverbal Indictors of Sexual Consent

You are invited to take part in a research study being conducted by Kristen Harrell, a researcher from Texas A&M University. The information in this form is provided to help you decide whether to take part. If you decide to take part in the study, you will be asked to sign this consent form. If you decide you do not want to participate, there will be no penalty to you, and you will not lose any benefits you normally would have.

Why Is This Study Being Done?
The purpose of this study is to understand what college students think about consent.

Why Am I Being Asked To Be In This Study?
You are being asked to be in this study because you are a traditionally-aged college student who has indicated you have experienced consensual sexual contact at some point.

How Many People Will Be Asked To Be In This Study?
Up to 100 people (participants) will be invited to participate in this study locally.

What Will I Be Asked To Do In This Study?
You will be asked to answer questions about what nonverbal consent is. Your participation in this study will last up to 90 minutes. The study includes one individual visit. There may be a brief follow-up discussion to clarify information. You will have a chance to review notes from your interview.

Are There Any Risks To Me?
The things that you will be doing are no more than risks than you would come across in everyday life. There is minimal risk of breach of privacy.

Will There Be Any Costs To Me?
Aside from your time, there are no costs for taking part in the study.

Will I Be Paid To Be In This Study?
You will not be paid for being in this study.

Will Information From This Study Be Kept Private?
Information about you will be kept confidential to the extent permitted or required by law. People who have access to your information include the Principal Investigator and research study personnel. Representatives of regulatory agencies such as the Office of Human Research Protections (OHRP) and entities such as the Texas A&M University Human Research Protection Program may access your records to make sure the study is being run correctly and that information is collected properly.

You will not be identified in any published document. Research records will be stored securely. You will be asked for a preferred pseudonym. Information about you will be stored in password protected electronic files. This consent form will be filed securely in an office area.

IRB NUMBER: IRB2016-0640D
IRB APPROVAL DATE: 10/27/2016
IRB EXPIRATION DATE: 10/15/2017

Who may I Contact for More Information?
The principal investigator for this study is Dr. Vicente Lechuga, Associate Director of Higher Education Administration. If you have any concerns, or complaints about this research, you may contact him at 979.845.4301.

I, Kristen Harrell, student, am the Protocol Director for this study. You may s contact me if you have any concerns, or complaints about this research at 979.847.7272.

For questions about your rights as a research participant, to provide input regarding research, or if you have questions, complaints, or concerns about the research, you may call the Texas A&M University Human Research Protection Program office by phone at 1-979-458-4067, toll free at 1-855-795-8636, or by email at **irb@tamu.edu**.

What if I Change My Mind About Participating?
This research is voluntary. You have the choice whether to be in this research study. You may decide to not begin or to stop participating at any time. If you choose not to be in this study or stop being in the study, there will be no effect on your employment, or other relationship with Texas A&M University, etc.

STATEMENT OF CONSENT
I agree to be in this study and know that I am not giving up any legal rights by signing this form. The procedures, risks, and benefits have been explained to me, and my questions have been answered. I know that new information about this research study will be provided to me as it becomes available and that the researcher will tell me if I must be removed from the study. I can ask more questions if I want. A copy of this entire consent form will be given to me.

_____ _____
Participant's Signature Date

_____ _____
Printed Name Date

AUDIO RECORDINGS

For the purposes of this study, an audio recording provides me the ability to review this interview at a later time. It also helps me ensure I have accurate record of what you say. Recording the interview, however, is not required to participate in this study. Any recordings made of this interview will be destroyed after the recording is typed up. Please see the options below regarding the use of an audio recording for this interview.

_____ I give my permission for an audio recording to be made of me during my participation in this research study.

IRB NUMBER: IRB2016-0640D
IRB APPROVAL DATE: 10/27/2016
IRB EXPIRATION DATE: 10/15/2017

_____ I do not give my permission for an audio recording to be made of me during my participation in this research study.

INVESTIGATOR'S AFFIDAVIT:
Either I have or my agent has carefully explained to the participant the nature of the above project. I hereby certify that to the best of my knowledge the person who signed this consent form was informed of the nature, demands, benefits, and risks involved in his/her participation.

_____	_____
Signature of Presenter	Date
_____	_____
Printed Name	Date

IRB NUMBER: IRB2016-0640D
IRB APPROVAL DATE: 10/27/2016
IRB EXPIRATION DATE: 10/15/2017

APPENDIX L

CONSENT FORM: FOCUS GROUP

CONSENT FORM FOCUS GROUP

Project Title: Nonverbal Indictors of Sexual Consent

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Up to 100 people (participants) will be invited to participate in this study locally.

What Will I Be Asked To Do In This Study?
You will be asked to speak with other students regarding sexual consent stories. Two stories will be presented to the group. You will be asked to talk about what you think about the stories. Your participation in this study will last up to 60 minutes. This includes one focus group.

Are There Any Risks To Me?
The things that you will be doing are no more than risks than you would come across in everyday life. Your privacy cannot be guaranteed because this is a focus group. Other people in the group will engage with you directly.

Will There Be Any Costs To Me?
Aside from your time, there are no costs for taking part in the study.

Will I Be Paid To Be In This Study?
You will not be paid for being in this study.

Will Information From This Study Be Kept Private?
Information about you will be kept confidential to the extent permitted or required by law. People who have access to your information include the Principal Investigator and research study personnel. Representatives of regulatory agencies such as the Office of Human Research Protections (OHRP) and entities such as the Texas A&M University Human Research Protection Program may access your records to make sure the study is being run correctly and that information is collected properly.

Other people in the study who are present during any focus groups you choose to attend will have knowledge of your expressed viewpoints and perspectives.

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You will not be identified in any published document. Research records will be stored securely. You will be asked for a preferred pseudonym. Information about you will be stored in password protected electronic files. This consent form will be filed securely in an office area.

Who may I Contact for More Information?
The principal investigator for this study is Dr. Vicente Lechuga, Associate Director of Higher Education Administration. If you have any questions, concerns, or complaints about this research, you may contact him at 979.845.4301.

I, Kristen Harrell, Associate Director and student, am the Protocol Director for this study. You may additionally contact me if you have any questions, concerns, or complaints about this research at 979.847.7272.

For questions about your rights as a research participant, to provide input regarding research, or if you have questions, complaints, or concerns about the research, you may call the Texas A&M University Human Research Protection Program office by phone at 1-979-458-4067, toll free at 1-855-795-8636, or by email at **irb@tamu.edu**.

What if I Change My Mind About Participating?
This research is voluntary and you have the choice whether to be in this research study. You may decide to not begin or to stop participating at any time. If you choose not to be in this study or stop being in the study, there will be no effect on your employment, or other relationship with Texas A&M University, etc.

STATEMENT OF CONSENT
I agree to be in this study and know that I am not giving up any legal rights by signing this form. The procedures, risks, and benefits have been explained to me, and my questions have been answered. I know that new information about this research study will be provided to me as it becomes available and that the researcher will tell me if I must be removed from the study. I can ask more questions if I want. A copy of this entire consent form will be given to me.

Participant's Signature	Date
Printed Name	Date

AUDIO RECORDINGS

For the purposes of this study, an audio recording provides me an opportunity to review the focus group discussion at a later time. Any recordings made of this focus group discussion will

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be destroyed after the discussion is typed up. Please see the options below regarding the use of an audio recording for this interview.

_____ I give my permission for an audio recording to be made of me during my participation in this research study.

_____ I do not give my permission for an audio recording to be made of me during my participation in this research study.

INVESTIGATOR'S AFFIDAVIT:
Either I have or my agent has carefully explained to the participant the nature of the above project. I hereby certify that to the best of my knowledge the person who signed this consent form was informed of the nature, demands, benefits, and risks involved in his/her participation.

_____	_____
Signature of Presenter	Date
_____	_____
Printed Name	Date

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APPENDIX M

SIMPLE SCENARIO

Riley and Taylor met through friends. They both agree to meet up for dinner and hang out to watch movies after. After a good dinner full of deep conversation, they end at Riley's apartment to watch movies. During the first half an hour of the movie, both Riley and Taylor slowly shift towards the middle of the couch they are sitting on until their arms are touching. As the first movie draws to a close, Taylor turns towards Riley looking into Riley's eyes. Riley takes Taylor's hand and leads Taylor into the bedroom. Taylor, making more eye contact with Riley, leans in until Taylor's face is no more than 2 inches from Riley's. Riley leans the rest of the way in gently kissing Taylor who reciprocates through pressure and movement of Taylor's lips. Taylor gently eases Taylor's tongue into Riley's mouth who opens Riley's mouth just a little bit more. Riley reaches for Taylor's butt pulling Taylor against Riley. Taylor pushes Taylor's hips forward, rubbing up against Riley. Taylor begins pulling up on Riley's shirt and Riley raises Riley's arms allowing the shirt to come off. Riley unbuttons Taylor's pants and Taylor moves to unbutton and unzip Riley's. Taylor and Riley both remove their own pants and Taylor removes Taylor's shirt. Taylor and Riley slowly move together, gazing into each other's eyes, scanning each other's lips. Taylor draws a hand down the back of Riley's shoulder to Riley's underwear, tugging them down while Riley places a hand on Taylor's genitals. Taylor pushes into Riley's hand fully pulling Riley's underwear off. Riley heads for the bed as Taylor removes Taylor's underwear. Taylor touches Riley slowly moving to penetrate Riley. Taylor gently starts penetrating Riley as Riley pushes into the penetration.

APPENDIX N

COMPLEX SCENARIO

PJ and Shawn have known each other for years. PJ invited Shawn to a party and Shawn accepted. They stayed at the party for a short time. Shawn asked PJ if they could leave and go back to PJ's place; PJ agreed. When they arrive, PJ immediately guides Shawn to the couch where they both kick off their shoes and sit closely. PJ cuddles up to Shawn taking a deep breath as PJ's head drops to Shawn's shoulder. Shawn places an arm around PJ. Shawn rubs PJ's shoulder with a thumb while PJ places a hand on Shawn's knee. PJ looks up at Shawn, making eye contact and propping up to get closer. Shawn leans down to kiss PJ pushing PJ down onto the couch. PJ kisses back and wraps an arm around Shawn to draw them closer together. Both PJ and Shawn use their hands to explore each other's body, avoiding contact with the other's genitals. After some time passes, Shawn stands reaching a hand out to PJ. PJ takes the hand, standing and leaning in to kiss Shawn again. They both push into their embrace exploring each other's mouths with their tongues. Shawn heads to PJ's bedroom as PJ follows. Shawn removes Shawn's shirt as PJ approaches placing both hands on Shawn's stomach and slipping a finger into Shawn's pants while running the finger along the waistband. PJ slides a hand into the back of Shawn's pants cupping Shawn's butt while kissing Shawn's neck. Shawn unbuttons PJ's shirt opening it and pulling PJ in making skin to skin contact. PJ pulls back, looking into Shawn's eyes and slipping the unbuttoned shirt off. PJ then slowly unfastens PJ's shorts stepping out of them and dropping them to the floor. Maintaining eye contact, Shawn removes Shawn's pants and underwear. Shawn guides PJ's hand to Shawn's genitals, PJ stimulates Shawn and then drops slowly to the floor to stimulate Shawn with PJ's mouth. After a few moments, Shawn lifts PJ's head, guiding PJ back to a standing position and pulls PJ to the bed. PJ lays down. Shawn begins kissing PJ's body and pulling PJ's underwear down. PJ lifts PJ's hips from the bed allowing Shawn to draw PJ's underwear down. Shawn lays on top of PJ as they continue kissing each other. PJ again stimulates Shawn's genitals briefly with a hand. Shawn moves down PJ's body lightly licking PJ's genitals and additionally stimulating PJ with

Shawn's fingers and hand. Shawn looks up at PJ and guides PJ to another position. Shawn moves to penetrate PJ and PJ does not move and makes no sound. Shawn stops. Moving to see PJ's face, Shawn raises both eyebrows searching PJ's eyes. PJ takes a deep breath and nods. Shawn tilts Shawn's head to the side, looking again into PJ's eyes. PJ nods again and guides Shawn back into position to penetrate. Shawn reaches to take one of PJ's hands. PJ grips Shawn's fingers as Shawn gently penetrates PJ.

APPENDIX O

THE NATURALISTIC TREATMENT OF TRUSTWORTHINESS

THE NATURALISTIC TREATMENT OF TRUSTWORTHINESS

Inquiry can be affected by:	Which produce effects of:	To take account of which we:		In the hope these actions will lead to:	And produce findings that are:
		During:	After:		
Factor patternings	Non-interpretability	Use prolonged engagement Use persistent observations Do triangulation Collect referential adequacy materials Do member checks	Establish structural corroboration (coherence) Establish referential adequacy Do member checks	Credibility	Plausible
Situational uniqueness	Non-comparability	Collect thick descriptive data Do theoretical/ purposive sampling	Develop thick description	Transferability	Context-relevant
Instrumental changes	Instability	Use overlap methods Use stepwise replication Leave audit trail	Do dependability audit (process)	Dependability	Stable
Investigator predilections	Bias	Do triangulation Practice reflexivity (audit trail)	Do confirmability audit (product)	Confirmability	Investigator-free

Source: *Criteria for Assessing the Trustworthiness of Naturalistic Inquiry,* by E. Guba & Y. S. Lincoln, 1981, retrieved from https://www.researchgate.net/publication/225597273_Criteria_for_Assessing_the_Trustworthiness_of_Naturalistic_Inquiry